

**In the Court of Sh. Rajinder Singh Nagpal, PCS,
Sub Divisional Judicial Magistrate, Samana.**

FIR No: 119 Dated: 09.06.2022
U/S: 61/1/14 of Excise Act
P/S: Sadar Samana.

Police Challan No.: CHA/96/2023
CNR No. : PBPTC10016892023
Date of Institution: 06.06.2023.
Date of Decision: 15.02.2025.

State Versus Paramjit Kaur wife of Manjit Singh, resident of
Village Marori, PS Sadar Samana, Distt. Patiala.

.....Accused.

Present: APP for the state
Accused on bail with counsel.

JUDGMENT

1. The above named accused has been forwarded to this Court by the Officer Incharge of Police Station Sadar Samana to face trial for the commission of offence punishable under section 61 of Punjab Excise Act, 1914.

2. In nutshell, facts of the prosecution case are that on 09.06.2022, HC Roop Singh along with police party was present at T-Point, Dhanetha, then he received a secret information that Paramjit Kaur is habitual of selling illicit liquor and and if raid is conducted at her house, she can be apprehended alongwith illicit liquor. Since, information was reliable, accordingly, ruqa was sent to police station and FIR was registered against accused U/s 61 of Punjab Excise Act. Thereafter, police party reached at the disclosed place and on seeing the police party

accused fled away from the spot and from there, a plastic container was recovered and on checking, it was found containing illicit liquor. One sample of 180 Ml. was drawn from the same and on measurement, remaining liquor came out to be 21 ³/₄ bottles of illicit liquor and same was kept in plastic container and said plastic container and sample of 180 ml. were sealed by IO with his seal bearing impression "RS" and same were taken into police possession. Site plan of the place of recovery was prepared. Case property was deposited in malkhana. Sample was sent for chemical examination to the office of Chemical Examiner, Kharar and its report has also been received. On 13.06.2022, accused Paramjit Kaur was arrested in this case. Statements of witnesses were recorded under section 161 Cr.P.C. After completion of investigation, challan was presented in the Court against the accused for trial.

3. On appearance of accused, copies of Challan and all the documents relied upon by prosecution were supplied to accused free of costs as envisaged u/s 207 Cr. P. C.

4. After hearing Ld. APP for the State as well as Ld. counsel for accused and after perusing the Police Report and documents appended with it, a prima facie case under section 61 of The Punjab Excise Act, 1914 was made out against accused, accordingly, she was charge sheeted. The charge was then read over and explained to accused in simple language to which she pleaded not guilty and claimed trial.

5. In order to prove the guilt of accused, prosecution examined HC Roop Singh, Investigating Officer as PW1. Prosecution also proved

on record ruqa as Ex.P1, FIR as Ex.P2, endorsement of FIR on ruqa as Ex.P3, sample seal as Ex.P4, Form No.29 as Ex.P5, recovery memo as Ex.P6, site plan as Ex.P7, arrest-cum-intimation memo of accused as Ex.P8, her personal search memo as Ex.P9, report of chemical examiner as Ex.P10 and case property as Ex.MO1. Thereafter learned APP for the State closed the prosecution evidence.

6. On closure of prosecution evidence, accused was examined u/s 313 of Criminal Procedure Code, in which all incriminating circumstances appearing in the statement of prosecution witness were put to accused, so as to apprise her of incriminating evidence, but accused had refuted all the circumstances by pleading false implication and innocence. Accused opted not to lead any defence evidence.

7. I have heard learned APP for the State and learned defence counsel and have also gone through case file very carefully and minutely.

8. Learned APP for the State while referring to the statement of prosecution witness has forcefully argued that prosecution has successfully proved the guilt of accused by leading cogent and convincing evidence. He contended that accused was apprehended with 22 bottles of illicit liquor on 09.06.2022 and she by possessing the said illicit liquor without any permit or license has committed an offence punishable under section 61 of Punjab Excise Act and the said recovery has been duly proved by the prosecution witness. So, he prayed for convicting the accused for the offence for which she has been charge sheeted.

9. Per contra, learned defence counsel has vehemently contended that accused has been falsely implicated in the instant case and she has not committed any offence. He further argued that no recovery was effected from accused, rather a false recovery has been planted upon her. So, he contended that case of prosecution is bundle of lies and prosecution has miserably failed to prove the guilt of accused beyond all shadows of doubts. Thus, he prayed for acquittal of accused from the offence for which she has been charge sheeted.

10. I have given thoughtful consideration to these submissions and in order to appreciate the same, have gone through the record of the case carefully.

11. It is general principle of criminal jurisprudence that it is the duty of prosecution to prove the guilt of accused beyond all reasonable doubts. Prosecution has to stand on its own legs and it cannot take advantage of weakness of defence. In order to bring home guilt of accused, prosecution examined investigating officer of this case. Lets see whether prosecution has been successful in bringing home guilt of accused beyond all reasonable doubts.

12. In the instant case, accused is charge-sheeted under section 61 of the Punjab Excise Act, 1914 for illegal possession of 22 bottles of illicit liquor and in order to prove the guilt of accused, prosecution examined investigating officer of this case. HC Roop Singh, Investigating Officer while deposing as PW1 has categorically stated that on 09.06.2022, he along with police party was present at T-Point, Dhanetha

and in the meantime, he received a secret information that accused Paramjit Kaur is habitual of selling illicit liquor and if raid be conducted at her house, she can be apprehended red handed. He further deposed that he sent ruqa Ex.P1 on which FIR Ex.P2 was registered against the accused. He further deposed that then raid was conducted at the disclosed place and accused had already fled from the spot and on checking of plastic container, it was found containing illicit liquor. He also stated that one sample of 180 ml. was drawn from the same and remaining liquor on measurement was found to be 21 $\frac{3}{4}$ bottles of liquor. He also testified that sample as well as bulk was sealed by him with his seal bearing impression "RS" and same were taken into police possession vide memo Ex.P6 and accused was arrested. He also proved on record ruqa as Ex.P1, FIR as Ex.P2, endorsement of FIR on ruqa as Ex.P3, sample seal as Ex.P4, Form No.29 as Ex.P5, recovery memo as Ex.P6, site plan as Ex.P7, arrest-cum-intimation memo of accused as Ex.P8, her personal search memo as Ex.P9, report of chemical examiner as Ex.P10 and case property as Ex.MO1. Thus, investigating officer has duly proved the recovery of 22 bottles of illicit liquor from accused on 09.06.2022 and accused was possessing the same without any license. The said witness was cross-examined by Ld. defence counsel, but no tangible fact supportive to the case of accused came out in his cross-examination. So despite cross-examination of PW-1, Ld. defence counsel could not disprove recovery of 22 bottles of illicit liquor from accused. Thus from

the evidence led by prosecution, it is duly proved that liquor recovered from accused was illicit liquor.

13. So as a sequel to above discussion, it is concluded that prosecution has successfully proved the recovery of 22 bottles of illicit liquor from accused on 09.06.2022 and accused was possessing the same illegally without any license or permit. Nothing has been produced in defence by accused to cast any doubt in the mind of Court regarding the case of prosecution which has been duly proved beyond all shadows of doubts. There is nothing on the record to reveal that there was any tampering with the case property or the sample or that there was even any chance of the same. So this Court is of considered opinion that prosecution has successfully proved the guilt of accused by leading cogent and convincing evidence.

14. The learned counsel for accused has argued that no public witness was joined by investigating agency during investigation and therefore, the case of prosecution is not sustainable. In my view this argument advanced by ld. defence counsel is not sustainable and on this score alone, case of prosecution cannot be thrown away for the obvious reason that getting assistance from general public is a very hard nut to cut, as it is seen in common experience that people from general public do not come forward to support the version of prosecution. Perhaps, they have their own problems. Sometimes, they avoid to incur wrath of accused, who is indulged in illegal activities and sometimes they afraid of being entangled in the Court proceedings. So, due to non-joining of

public witness, case of prosecution does not fail. Otherwise also, the statements of official witnesses are as good as that of public witnesses and safe-guard has been provided in various judgments by Hon'ble High Court that before placing reliance upon statements of official witnesses, same shall be scrutinized with due care and caution. Applying this acid test formula to the case in hand, I have minutely gone through the evidence of prosecution witnesses and could not find anything to doubt their credibility. No ill-will or enmity between accused and police officials deposing against him has been suggested which may give rise to implicate the accused falsely. So merely on the ground that no independent witness has been joined in recovery is not a ground to doubt the recovery and the case of prosecution, when the same is otherwise duly proved beyond all shadows of doubt.

15. So from the testimony of investigating officer as well as documentary evidence on record, it is duly proved beyond all shadows of doubts that accused was possessing 22 bottles of illicit liquor on 09.06.2022 without any permit or license and the said illicit liquor was duly recovered from her by police and one sample measuring 180 ml. was drawn from the same and was sealed by IO with his seal impression "RS" and remaining liquor was also sealed by investigating officer and sample was sent for chemical examination, which was reported to be of illicit liquor as per report Ex.P10. So accused by possessing 22 bottles of illicit liquor without any license, has committed an offence punishable under Section 61 of The Punjab Excise Act, 1914.

16. So as a sequel to my above discussion, prosecution has successfully proved the guilt of accused beyond all shadows of doubts. Thus accused Paramjit Kaur is hereby held guilty for the commission of offence punishable under section 61 of the Punjab Excise Act, 1914, accordingly, she is convicted under section 61 of the Punjab Excise Act, 1914. Let convict be taken into custody to be heard on the quantum of sentence.

Pronounced:
15.02.2025.
(Varinder Singh, Stenographer-II)

(Rajinder Singh Nagpal),PCS
Sub Divisional Judicial Magistrate,
Samana/ UID NO. PB033

QUANTUM OF SENTENCE:

Present: APP for the state
Convict in custody with counsel

1. Heard on the quantum of sentence. Convict submitted that she is a poor person, first offender and has family to support as she is the only bread winner of her family. So she prayed for taking a lenient view and for releasing her on probation.
2. On the other hand, learned APP for State prayed for severe punishment to convict.
3. I have given thoughtful consideration to rival submissions of convict and APP for State. Since convict is first offender and her previous conviction is neither alleged nor proved by prosecution and she is also stated to be the sole bread earner of her family and is having whole family to support, so by sending her behind the bars, her whole family will suffer. Moreover, the purpose of punishment is to reform a criminal and not to made her a hardened criminal by her association with the habitual offenders in the jail. Even in this case, recovery effected from convict is only of 22 bottles of illicit liquor, which is not a very huge quantity. Since convict is first offender and belongs to poor strata of society and is having whole family to support, so keeping in view entire facts and circumstances of the case, antecedents of convict and all aggravating and mitigating circumstances of convict, I deem it a fit case, where a lenient view can be taken and where convict can be released on probation under section 4(1) of Probation of Offenders Act, 1958. So,

convict is ordered to be released on probation under section 4(1) of Probation of Offenders Act, 1958 on furnishing personal probation bond in the sum of Rs. 25,000/- thereby undertaking to maintain peace and be of good behaviour for a period of six months and to appear and receive the sentence as and when called upon by Court, during aforesaid period. The convict is also burdened to pay Rs.1000/- as cost of litigation under section 61 of The Punjab Excise Act, 1914. Bail bonds and surety bonds of convict stands discharged. Case property, if any, be dealt with as per rules after expiry of period of limitation for filing appeal or revision, or subject to the result of appeal or revision, if any. File be consigned to the Record Room, Samana.

Pronounced:
15.02.2025.

(Varinder Singh, Stenographer-II)

(Rajinder Singh Nagpal),PCS
Sub Divisional Judicial Magistrate,
Samana/ UID NO. PB033

Present:- APP for the State.
Accused on bail with counsel.

Heard. Finding a prima facie case for commission of offence punishable under Section 61/1/14 of Excise Act, accused has been charge sheeted accordingly, to which accused pleaded not guilty and claimed trial.

Ld. APP for the State submitted that Investigating Officer of this case is present in the Court today and he prayed for examining the said witness today itself. Accordingly, said PW is examined as PW1. Learned APP for the state closed the prosecution evidence. Statement of accused U/S 313 Cr.P.C recorded. Accused opted not to lead any defence evidence.

Final arguments heard. Vide my separate detailed judgment of even date, accused is convicted under section 61 of Punjab Excise Act, 1914 as detailed therein. Let she be taken into custody to be heard on the quantum of sentence.

Pronounced:
15.02.2025.
(Varinder Singh, Stenographer-II)

(Rajinder Singh Nagpal),PCS
Sub Divisional Judicial Magistrate,
Samana/ UID NO. PB033

Present: APP for the state
Convict in custody with counsel

Heard on the quantum of sentence. Vide my separate detailed order of even date on the quantum of sentence, convict is ordered to be released on probation as detailed therein. Personal Probation bond furnished, which is accepted and attested. Cost of litigation also deposited against receipt. Accordingly, convict is released on probation. Case property, if any, be dealt with as per rules after expiry of period of limitation for filing appeal or revision, or subject to the result of appeal or revision, if any. File be consigned to the Record Room, Samana.

Pronounced:
15.02.2025.
(Varinder Singh, Stenographer-II)

(Rajinder Singh Nagpal), PCS
Sub Divisional Judicial Magistrate,
Samana/ UID NO. PB033