

12078/18

Order below Exh. to plead guilty

1. The accused has moved a purshis to plead guilty, accompanied with the affidavit of the accused. The application contains brief description of voluntariness and understanding of nature and extent of punishment provided under the law for the said offence.

2. The Learned APP has stated that he has no objection with regard to the present pursis and further he prayed to pass sentence as deems fit keeping in view the nature of offence.

3. After due verification about voluntariness to plead guilty by the offender and providing opportunity to the Learned APP for the State, taking into consideration the nature of offence along with the facts and circumstances of the offence, it is observed by the Court that the offence under Gujarat Prohibition Act do not come within the purview of Socio-Economic Offences as mentioned in the list of offences which fall under the definition of Socio-Economic Offences, published by Central Government, vide its notification no.S.O.1042(E), dated 11th July of 2006.

4. In the case of **State of Gujarat Vs. Natwar Harchandji Thakor**, it has been held by the Hon'ble High Court that "**Of course, there is a purpose and policy behind providing 'minimum sentence'. There are variety of reasons which have led to legislative prescription of minimum sentences for certain offences and in certain enactments. Again, it will be interesting to note, at this juncture, that the legislatures, while enacting and providing for minimum sentence, have made further provisions in many enactments, with the help of proviso or 'explanation' or otherwise for discretion, so that in a given fit case, on being satisfied, in presence of special and adequate reasons to be recorded in the judgment of the Court, the Court can exercise discretion vested in imposing the punishment**

lesser than 'minimum sentence'. Keeping in view the ratio held in the case of **State of Gujarat Vs. Natwar Harchandji Thakor**, lesser punishment than the punishment prescribed for the offence, on pleading guilty, can be awarded.

5. The accused has been heard on the quantum of sentence. On perusal of the facts and circumstances of the case and purshis passed by the accused, following order is passed:

Order

1. The accused is hereby ordered to undergo sentence of imprisonment till rising of the Court and to pay a fine of Rs.100/- and in default to undergo imprisonment for ten days.
2. The statements of the facts stated by the accused in the present application, pleading guilty shall not be used, for any other purpose except for the purpose of the present case.
3. Muddamal (like vehicle, mobile etc.) be returned back as per law & rules to the owner, after proper verification by the concerned Police Station and other muddamaal be disposed of as per law.
4. The case file be consigned to record room after due compliance.

Signed and pronounced in open Court on 14/12/2019

Date: 14/12/2019
Place: Rajkot

(N.R.Vadhwani)
(J.M.F.C. Muni. Rajkot)
Judge Code: GJ01368