



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR No.1838 of 2025
Reserved on:24.09.2025
Pronounced on:09.10.2025**

Gurparvesh Singh @ Bhessa

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Argued By:-Mr. Bikramjeet Singh Jatana, Advocate
for the petitioner.

Mr. Gorav Kathuria, DAG, Punjab.

Yashvir Singh Rathor, J.

1. Present revision petition has been filed against the impugned judgment dated 10.09.2019, passed by learned JMIC, Amritsar, whereby the petitioner has been convicted for the offence under Section 25 of the Arms Act and was sentenced to rigorous imprisonment for a period of 03 years, along with fine of Rs.5,000/- and to further undergo imprisonment for a period of 03 months in case of default of payment of fine as well as judgment dated 10.07.2025 passed by learned Additional Sessions Judge, Amritsar in CRA-554/2019, vide which appeal filed by the petitioner against the judgment dated 10.09.2019, passed by learned JMIC, Amritsar has been dismissed.

2. Brief facts of the prosecution case are that on 27.04.2017, ASI Binderjit Singh received a secret information that Gurparvesh Singh (petitioner) was involved in various cases of dacoity, snatching, kidnapping, assault and he



also snatches car on highways. As per the information, Gurparvesh Singh (petitioner) was present near Daburji road and in case a raid is conducted, he could be apprehended along with illegal weapons and other articles. Finding the said information to be reliable, ASI Binderjit Singh conducted a raid at the disclosed place and saw one clean shaven person standing on the left side of road at Sua Pul. On seeing the police party, he tried to escape but was apprehended by the police party. On enquiry, he disclosed his name as Gurparvesh Singh and his personal search was conducted and one 9 mm pistol loaded with 5 cartridges was recovered from his possession for which he could not produce any permit or licence. Ruqa was sent to the Police Station and formal FIR was got registered. Rough sketch of the pistol was prepared and the pistol and cartridges were converted into a parcel and sealed with seal 'BS' and taken into possession. Accused was arrested. Statements of witnesses under Section 161 Cr.P.C were recorded. On return to the Police Station, case property was deposited in the Malkhana. Same was again obtained from the Malkhana on 29.05.2017 and the parcel was produced before the Armourer, who opened the parcel and found the pistol to be in working condition and cartridges to be live. Thereafter, he again resealed the pistol and the cartridges and returned the parcel to ASI Binderjit Singh and the same was again deposited in the Malkhana. Sanction to prosecute accused under Arms Act was obtained from District Magistrate, Amritsar and after completion of investigation, final report was present in the Court for trial against the accused.

3. In order to prove its case, prosecution examined PW1 ASI Binderjit Singh, PW2 ASI Sukhwinder Singh, PW3 ASI Parminder Singh and PW4 HC



Bikramjit Singh. Thereafter, the evidence of the prosecution was closed by order on 04.10.2018.

4. Statement of the accused under Section 313 Cr.P.C was recorded wherein the entire incriminating material was put to him but the same was denied by him to be wrong. In defence, accused did not choose to lead any evidence and the case was fixed for arguments.

5. After hearing learned counsel for the parties, accused was held guilty and convicted under Section 25 of the Arms Act and sentenced to undergo imprisonment as mentioned in opening paragraph of the judgment.

6. Feeling aggrieved, revisionist preferred an appeal before the Court of Sessions but the same was dismissed vide judgment dated 10.07.2025 passed by learned Additional Sessions Judge, Amritsar. Hence, the revision petition has been instituted. Learned counsel for the revisionist and learned State Counsel have been heard.

7. It is well settled that the revisional Court has the power to review the proceedings and decision of inferior Courts to ensure legality, correctness and propriety and can pass orders for re-trial to prevent gross miscarriage of justice. This power is exercised by the High Court to correct palpable errors, non-compliance with law, arbitrary exercise of discretion by lower Courts but evidence already appreciated by the trial Court and the Appellate Court cannot be re-appreciated to come to a different conclusion. However, the revisional Court can examine the records of the subordinate Court, to check the correctness, legality, or propriety of its findings, sentences or orders as provided under Section 397 Cr.P.C. Revisional jurisdiction can also be exercised, where judgments under



challenge are inaccurate and there is no adherence to the provisions of law and the recorded finding is not supported by evidence or where relevant evidence has been omitted.

8. In the present case, the prosecution in order to prove its case, has examined the material witnesses, namely, PW1 Binderjit Singh, who is the Investigating Officer as well as the complainant and PW3 ASI Parminder Singh, who was accompanying him at the time of receipt of secret information and apprehension of accused. Both of them have stated material facts of the prosecution case on oath as well and deposed that on 27.04.2017, while they were posted at CIA Staff, Amritsar, a secret information was received by PW1 that present accused is standing on Sua Pul (Bridge) near Daburji on Amritsar-Jalandhar road along with some weapon and in case a raid is conducted, he can be apprehended. Thereafter, raid was conducted and accused was apprehended and one pistol 9 mm loaded with five cartridges was recovered from his possession. Accused could not produce any permit or licence for possessing the same and the pistol and cartridges were converted into a parcel and sealed with seal 'BS' and taken into possession vide Memo Ex.P2 after preparing its sketch Ex.P1. The sample seal was handed over to PW3 by PW1. PW1 further deposed that he sent ruqa Ex.P4 to the police station through Constable Mandeep Singh and formal FIR Ex.P5 was registered by Inspector Harvinderpal Singh SHO. He prepared rough site plan of the place of recovery Ex.P6 and arrested the accused. On return to the Police Station, he deposited the case property in the Malkhana. Thereafter, on 29.05.2017, he went to the Office of Armorer along with the sealed parcel containing the pistol and cartridges after obtaining it from the MHC. Armorer



Bikramjit Singh tested the pistol and the cartridges after opening the parcel and gave his test report Ex.P8 and thereafter, the pistol and cartridges were again resealed with seal `BS` and handed over to him which was again deposited by him in the Malkhana. Thereafter, he obtained sanction to prosecute the accused from District Magistrate, Amritsar vide order Ex.P10.

9. PW2 ASI Sukhwinder Singh was posted as Malkhana Moharar who has also deposed about deposit of parcel containing case property with him by PW1 on 27.04.2017. He further deposed that he handed over the parcel again to PW1 on 29.05.2017 and the parcel was again deposited by PW1 after getting the weapon tested from the Armorer sealed with seal `BS` which was again deposited in the Malkhana by him and he made entries in Register No.19.

10. PW4 HC Bikramjit Singh is the Armorer who deposed that on 29.05.2017, PW1 produced the parcel before him which was sealed with seal `BS`. He opened the parcel and after examining the weapon, he prepared his test report Ex.P8 after conducting mechanical examination of the pistol, magazine and cartridges. He put the pistol and cartridges in the same parcel and resealed it with seal impression `BS` and returned the same to the IO.

11. After hearing the parties and on going through the material on the file, I am of the considered opinion that revision petition deserves to succeed and the revisionist-accused is entitled to be acquitted of the charge for the reasons discussed hereinafter.

12. In the present case, accused has been charged under Section 25 of Arms Act for keeping in his possession one 9 mm pistol along with 5 live cartridges. As per version of PW1, he had obtained sanction to prosecute accused



under Arms Act from District Magistrate, Amritsar and he has tendered the sanction order Ex.P10. Section 39 of Arms Act provides that “no prosecution shall be instituted against any person in respect of any offence under Section 3 of Arms Act without the previous sanction of the District Magistrate”. In the present case, the sanction order Ex.P10 has been tendered by PW1 who is the Investigating Officer but no official from the Office of District Magistrate, Amritsar has been examined to prove the sanction order. The sanction order is not per-se admissible and could not have been led in evidence by PW1 as the sanction was not accorded by him but by the District Magistrate. Either the prosecution was required to examine the District Magistrate or some official working under his control to prove that the sanction had been accorded by the District Magistrate to prosecute the accused and it bears his signatures. In these circumstances, the sanction order Ex.P10 cannot be read in evidence and once it is so, the prosecution case is bound to fail on this score only.

13. Besides this, it has been held in Law Finder Doc Id #2541089- **Pritam Singh Vs. State of Punjab**, that prior sanction from competent authority (District Magistrate) under Section 39 of Arms Act is not a mere formality. It must be shown that the weapon was produced before the authority for obtaining sanction and failure to produce the weapon and lack of application of mind by District Magistrate renders the sanction defective. To the same effect is the law laid down in 2012(4) R.C.R (Criminal) 770 – **Randhir Singh @ Chini Vs. State of Haryana**. In the present case, the accused was apprehended on 27.04.2017 and as per testimony of PW1, he had deposited the case property with MHC on the same day. Thereafter, he obtained it from the MHC on 29.05.2017 for getting the



weapon examined from the Armorer and he again re-deposited the parcel with MHC on the same day. To the same effect is the testimony of PW2, who was the MHC. The sanction to prosecute the accused under Section 39 of Arms Act Ex.P10 has been accorded on 04.07.2017 allegedly by District Magistrate, Amritsar. There is no whisper in the testimony of PW1 that he had again obtained the parcel from MHC on 04.07.2017 for producing the parcel before District Magistrate, Amritsar while seeking sanction. As such, the weapon was not produced before District Magistrate, Amritsar while obtaining sanction to prosecute the accused and sanction which was allegedly granted was thus just a mere formality and on this score only, recovery of weapon from accused cannot be believed as it is a serious omission on the part of the prosecution and its benefit thus has to go to the accused.

14. In 1995 SCC (Cri) 815 – **Azad Singh Vs. State of Haryana**, it has been held by the Hon'ble Supreme Court that the prosecution has to establish that the arms and ammunition recovered from the appellant was in working condition and since Armorer had not test fired the pistol, it was insufficient to hold that the weapon was in working condition and accused was acquitted. In 2014(1) RCR (Criminal) 24 – **Bhuptej Pal Singh Vs. State of Punjab**, it was held that since no bullet was test fired by the Armorer, it cannot be held that the revolver and cartridges were in working condition and the accused was acquitted. In the present case also, PW4, who is the Armorer has admitted that he had not test fired the pistol and had rather examined it mechanically only. On this score, it is thus not established that the pistol was in working condition and the cartridges were live as the same had not been test fired.



15. As a result of afore-said discussion, I am of the considered opinion the prosecution case suffers from material infirmity and lacunaes which have been overlooked by both the Courts below while convicting the petitioner. Resultantly, impugned judgment dated 10.09.2019 passed by Judicial Magistrate Ist Class, Amritsar as well as the impugned judgment dated 10.07.2025 passed by Additional Sessions Judge, Amritsar are hereby set aside and petitioner is acquitted of the charge under Section 25 of the Arms Act. Petitioner along with surety is discharged from the bonds of appearance. Case property be confiscated and destroyed. Copy of the judgment be sent to Courts below for compliance.

(Yashvir Singh Rathor)
Judge

October 09, 2025

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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No