



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRA-S-1155-SB-2004

Date of Decision: 10.03.2025

BIJENDER AND ORS

.....Appellants

Vs.

STATE OF HARYANA

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Tajender Joshi, Advocate for the appellants.
Mr. R.K.S. Brar, Additional AG, Haryana.

DEEPAK GUPTA, J.

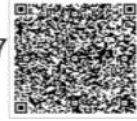
The four appellants along with one Om Parkash were tried by learned Additional Sessions Judge, Bhiwani in case arising out of FIR No.12 dated 14.01.1997 registered at Police Station Behal under Sections 148, 149, 307, 332, 353, 186 IPC and Section 61 of the Excise Act.

2. Vide judgment dated 03.05.2004, all of the appellants were acquitted for the offence under Section 307 read with Section 149 IPC. However, conviction was recorded under Section 148 IPC, Section 186 read with Section 149 IPC, Section 332 read with Section 149 IPC, Section 353 read with Section 149 IPC and Section 61 of the Excise Act.

3. Vide a separate order dated 05.05.2004, the appellants were sentenced as under:-

Offence under Section	Period of imprisonment	Fine (in ₹)	Default sentence
Section 148 IPC	2 years RI	300/- each	Two months SI
Section 186 read with Section 149 IPC	3 months RI	100/- each	15 days SI
Section 332 read with Section 149 IPC	2 years RI	300/-each	Two months SI
Section 353 read with Section 149 IPC	2 years RI	300/-each	Two months SI
Section 61 Punjab Excise Act	1 year RI	1000/-each	3 months SI

However, all substantive sentences were directed to run concurrently.



4. Against the aforesaid conviction & sentence, the present appeal was filed by four of the convicts. The sentence was suspended vide order dated 28.05.2004 and the appeal was admitted by this Court.

5. Today before this Court, statement is made by learned counsel for the appellants so as to withdraw the appeal against conviction. He has further made a prayer to modify the impugned order qua sentence and prays to sentence the appellants to imprisonment for the period already undergone by them.

6. As the judgment of the trial Court would reveal that on 14.01.1997, Police party was present on the road leading from Village Nangal to Rampura to detect cases under Section 61 of the Punjab Excise Act. They noticed a vehicle and signaled to stop it. However, the driver did not stop the vehicle. Later on, the four-wheeler in question was punctured due to which the driver of the same had to stop it. It is alleged that with an intention to stop the Jeep, police party hit the front glass of the Jeep, which was broken and then the accused assaulted the police party. It is further the allegation that from the vehicle of the accused, 15 jerrycans of 40 liter each of the illicit liquor were recovered. The total quantity was 550 liters.

7. The offence had taken place in the year in January 1997 i.e. more than 28 years back. At the time of offence, appellant-Bijender was 23 years of age; appellant-Rambir was 24 years of age; appellant Gian Chand was 26 years of age and appellant-Kuldeep was 21 years of age, as recorded in the judgment of the trial Court. Meaning thereby, all of them were young persons.

8. Perusal of the custody certificates, placed on record by the respondent-State, would reveal that appellant-Bijender has already undergone custody period of 03 months 26 days. Appellant-Rambir has already undergone custody period of 01 months and 17 days. Appellant-Gian Chand has already undergone custody period of 01 month; whereas appellant-Kuldeep has already undergone custody period of 03 months and 21 days. It is revealed further that none of them are previous convicts.



Except Bijender Singh, who was involved in one more case pertaining to Excise Act, none of the other appellants are involved in any other case.

9. Considering all the facts and circumstances of the case, it appears to this Court that it will not be in the interest of justice to send the appellants behind the bars to carry out the remaining sentence after more than 28 years of the date of offence, and after more than 21 years from the date of conviction, particularly when they are not found to have been convicted for any heinous crime or any other criminal case.

10. As such, upholding the conviction, the order of sentence as passed by the trial Court is hereby modified. All four appellants are hereby sentenced to imprisonment for the period already undergone by them.

10.03.2025

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**(DEEPAK GUPTA)
JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No