

QUANTUM OF SENTENCE

State of HP Vs. Totu

Cr. Appeal No. 489 of 2011

Reserved on: 3.3.2026

30.03.2026 Present: Mr Prashant Sen, Deputy Advocate General for the appellant/State.

Mr Arush Matlotia, Advocate, for the convict.

The parties have been heard on the quantum of sentence. Mr Prashant Sen, learned Deputy Advocate General, for the appellant/State, submitted that the convict was found transporting a huge quantity of liquor, which is affecting the public exchequer and public safety. Therefore, he prayed that a deterrent view be taken.

2. Mr Arush Matlotia, learned counsel for the convict, submitted that the convict is a mason by profession and works on a daily wage basis. He has a wife and three children who are dependent upon him. His family members would suffer from the convict's detention. Hence, he prayed that the present petition be dismissed.

3. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

4. As per the prosecution, the convict was found in possession of a plastic container containing 5 liters of liquor. Section 61(1)(a) of the Punjab Excise Act punishes

the possession of the intoxicant without a permit by imprisonment for a term which may extend to three years and with a fine which may extend to ₹ 2.00 lakh. The incident occurred on 29.3.2009, and more than 17 years have elapsed since then. The convict had to face the agony of trial. He had to defend himself in the present appeal. He has a family to support. These considerations cannot be ignored. The Punjab Excise Act has been enacted to ensure the safety of the people by providing that a person would need a permit from a competent authority for possessing the liquor. This also benefits the public exchequer as the fee has to be paid for obtaining the permit.

5. Balancing these two considerations, the convict is sentenced to undergo simple imprisonment for six months, pay a fine of ₹20,000/- and in default of payment of fine, to undergo further simple imprisonment for a period of three months for the commission of an offence punishable under Section 61(1)(a) of the Punjab Excise Act (as applicable to the State of HP).

6. The convict is directed to surrender before the learned Trial Court within one month to undergo the sentence awarded today, failing which, the learned Trial Court shall take steps to execute the sentence as per the law.

7. The record of the learned Trial Court be returned forthwith with a copy of the judgment and order.

(Rakesh Kainthla)
Judge

30th March, 2026
(Chander)