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

CRR No.4254 of 2015 (O&M)

Date of decision: November 04, 2015

Tajinder Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Amardeep Hooda, Advocate
for the petitioner.

SABINA, J

Petitioner and his co-accused Virender Singh had faced trial in FIR No.278 dated 05.0.2004, under Sections 419 and 420 of Indian Penal Code, 1860 ('IPC' for short), registered at Police Station Civil Lines, Rohtak.

Trial Court vide judgment/order dated 12.08.2013/16.08.2013 ordered the conviction and sentence of the petitioner qua commission of offence punishable under Section 419 IPC whereas, co-accused Virender Singh was ordered to be convicted and sentenced qua commission of offence punishable under Sections 419/120-B IPC. The conviction and sentence of the petitioner and his co-accused Virender Singh, as ordered by the trial Court, were upheld by the Appellate Court vide order dated 23.07.2015. Hence, the present petition by the petitioner-Tajinder Singh.

Learned counsel for the petitioner has submitted that the petitioner was the first offender and was liable to be

released on probation. Learned counsel has further submitted that petitioner is facing criminal proceedings since the year 2004. In support of his arguments, learned counsel has placed reliance on *Dharampal versus State of Haryana*, 1999 (2) R.C.R. (Criminal) 863, wherein, it was held as under:-

“8. The reasons which have been advanced by the learned Additional Sessions Judge are not cogent. The Courts below have not taken into consideration that the petitioner is a first offender and that he has suffered the agony of criminal proceedings since 1989. The object of the law is not only to punish an offender but also to reclaim him. No useful purpose will be served to the State or to the society, if the petitioner is sent to jail lest he may become a hardened criminal.”

Prosecution story, in brief, is that, on 05.06.2004 at about 3:30 PM, petitioner had appeared for taking the Home Science exam under Roll No.05A732068 in place of his co-accused Virender Singh. In this regard, a complaint was made by the Centre Superintendent to the Principal Dhanwantri High School, Arya Nagar, Rohtak. Petitioner was arrested at the spot and identity card of Virender Singh along with Roll number were taken in possession. Answer-sheet and question paper were also taken in possession by the police. After completion of investigation and necessary formalities, challan was presented against the petitioner and his co-accused Virender Singh.

Complainant Nirmal Gurnani, Principal, Dhanwantri High School, Arya Nagar, Rohtak while appearing in the

witness-box as PW1 deposed that on 05.06.2004, petitioner had been apprehended while appearing in the Board examination in place of Virender Singh.

PW2 Meena Kaushik, Science Teacher, Dhanwantri School, Arya Nagar, Rohtak stated that on 05.06.2004, principal had come to the room for checking purposes and it transpired that the petitioner was appearing in the examination in place of candidate Virender Singh. On comparison, it was found that the photograph of the candidate did not match with the petitioner. Petitioner was arrested by the police and relevant documents were taken in possession.

Other witnesses examined by the prosecution during trial deposed with regard to the investigation of the case.

PW6 Vijender deposed that Roll No.05A732068 was issued in the name of Virender Kumar son of Mehar Singh. He also proved other relevant documents in this regard.

PW1 and PW2 had thus, fully supported the prosecution case and had proved on record that the petitioner had appeared in the examination on behalf of co-accused Virender Singh. So far as PW1 and PW2 are concerned, they had no enmity or ill-will against the petitioner to have falsely involved him in this case. Petitioner was arrested at the spot.

Keeping in view the seriousness of allegations levelled against the petitioner, the Courts below had rightly ordered the conviction and sentence of the petitioner qua

commission of offence punishable under Section 419 Cr. P.C.

The facts of the present case do not warrant the release of the petitioner on probation. The judgment relied upon by the learned counsel for the petitioner fails to advance the case of the petitioner as it is based on different facts.

No ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

November 04, 2015

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