

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR 1853-2010 (O&M)
Date of decision: 10.10.2017

Sabir alias Nanhey

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Surinder Dagar, Advocate for the petitioner
Mr.R.K.Makkad, Deputy Advocate General, Haryana

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Heard.

Learned counsel for the petitioner presses the petition on the quantum of sentence only.

Custody certificate dated 6.10.2016 filed in Court today and the same is taken on record.

As per allegations against the petitioner, he entered the house of Girdhari Lal to commit theft but villagers came out and apprehended him at the spot. No actual theft was committed. Vide judgment of conviction dated 23.2.2008 and order of sentence dated 25.2.2008 passed by learned Sub Divisional Judicial Magistrate, Ferozepur Jhirka, the petitioner was convicted under Section 457 and 380 IPC read with Section 511 IPC and was sentenced to undergo Rigorous Imprisonment for six months under Section 457 IPC and further sentenced to undergo Rigorous Imprisonment

for six months under Section 380 read with Section 511 IPC. Both the sentences were directed to run concurrently. Appeal filed by the petitioner was dismissed by learned Additional Sessions Judge, Nuh vide judgment dated 5.6.2010.

As per Custody certificate, the petitioner has undergone actual sentence of 2 months and 18 days. No previous case is pending against the petitioner nor the petitioner is a previous convict. The occurrence took place in the year 2001. Learned counsel for the petitioner states that the petitioner was 19 years of age at the time of alleged commission of crime. He is the first offender and got a clean record. Therefore, he should be given a chance to reform himself. Learned counsel for the petitioner prays for release of petitioner on probation.

Considering that it was a case of tress-pass only and no actual theft was committed and that the petitioner was quite young i.e. 19 years old at the time of commission of crime, with no previous history of any crime nor he is a previous convict and considering the fact that the petitioner is the first offender and the sentence is six months only, request for releasing him on probation is allowed. While maintaining the conviction of the petitioner under Sections 457 and 380 IPC read with Section 511 IPC, sentence imposed upon him is hereby set aside and he is ordered to be released on probation under Section 5(1) of Probation of Offenders Act, 1958 on his furnishing probation bonds in the sum of Rs.20,000/- with one surety of the like amount to the satisfaction of learned Chief Judicial Magistrate, Mewat (Nuh) for a period of one year with an undertaking to maintain peace and be of good behaviour, failing which, the petitioner shall surrender before the lower Court to undergo the remaining part of the sentence. Petitioner is

directed to furnish probation bonds within three weeks from the date of receipt of certified copy of this order. As provided under Section 12 of Probation of Offenders Act, 1958 the conviction of the petitioner shall not be treated as disqualification for any purpose.

Revision is partly allowed.

10.10.2017

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned: Yes

Whether Reportable: No