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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR No.3382 of 2017 (O&M)
Date of Decision: 22.12.2017

Samaun @ Toni and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Randeep Singh, Advocate, for
Mr. Vipin Mahajan, Advocate,
for the petitioners.

Mr. Hittan Nehra, Additional Advocate General, Punjab.

SUDIP AHLUWALIA, J. (ORAL)

The petitioners were convicted of the offence under Section 411 of the Indian Penal Code, passed by the Ld. Judicial Magistrate Ist Class, Batala, and sentenced to suffer rigorous imprisonment for a period of two years, apart from a fine of ₹500/- each (Rupees Five Hundred Only). Their appeal against the judgment of conviction was dismissed.

2. From the Custody Certificates of the petitioners placed on record today, it transpires that they have undergone actual sentence to the extent of four months and twenty five days/twenty six days till date.

3. It is the contention of Ld. Counsel for the petitioners that they being first offenders, ought to have been treated under the Probation of

Offenders Act, 1958, which was not considered by the Ld. Trial Court as well as the Ld. Appellate Court.

4. Admittedly, there is no record of the petitioners' involvement in any other criminal case.

5. As such, this Court is inclined to follow the judgment of a Co-ordinate Bench passed in CRR No.1407 of 2017, in which similarly the benefit of probation was extended to the convict after his conviction of the similar offence under Section 411 of the Indian Penal Code, and in which case the detention suffered by the concerned convict was much lesser.

6. As such, while maintaining the conviction under Section 411 of the Indian Penal Code, the judgments of both the Courts below are hereby set aside. The petitioner is ordered to be released on probation on his furnishing personal bonds in the sum of ₹25,000/- (Rupees Twenty Five Thousand Only) for a period of one year with one surety of the like amount to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned. The probation bonds be furnished before the Ld. Chief Judicial Magistrate, concerned, within two weeks from the date of receipt of certified copy of this order with the undertaking to maintain peace and be of good behaviour.

7. The conviction will not be treated as a disqualification attached to conviction as per Section 12 of the Probation of Offenders Act, 1958.

8. Disposed off.

22.12.2017

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

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|---------------------------------|---------|
| 1. Whether speaking/ reasoned : | Yes/ No |
| 2. Whether reportable : | Yes/ No |