

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

**Crl. Revision No.2634-2011(O&M)  
Date of Order:02.07.2019**

**Roshan**

**..Petitioner**

**Versus**

**State of Haryana**

**..Respondent**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Rajesh Lamba, Advocate  
for the petitioner.

Mr. Kuldeep Tiwari, Addl.A.G.,Haryana

**ANIL KSHETARPAL, J(Oral)**

This revision petition has been preferred against the judgment of conviction and order of sentence passed by the learned Judicial Magistrate, affirmed in appeal.

Petitioner has been convicted under Sections 279/304-A of the Indian Penal Code in FIR No.470 dated 25.12.2002, Police Station Hodal.

Although, learned counsel for the petitioner made sincere attempt to persuade this court on merits of the case by asserting that the complainant-Baldev, author of the FIR has not been examined, however, in view of the evidence of the eye witness Gian Chand, who appeared as PW1, this Court does not find substance in the argument.

However, learned counsel for the petitioner submitted that the alleged accident took place on 25.12.2002 i.e. 16½ years back and the petitioner has already undergone actual sentence of 4 months and 11 days

out of total sentence of one year. He further submitted that the petitioner is a professional driver of a truck/dumper, aged about 49 years, at the time of accident he was 34 years old but never caused any other accident. It is not the case of the prosecution that the petitioner was drunk at the time of accident. He further submitted that the petitioner has a family to support and children of the petitioner are now grown up. Petitioner is on bail since 29.11.2011 and sending the petitioner back to jail after such a long gap would be too harsh and therefore, the sentence awarded be reduced to undergone.

On the other hand, prayer made by learned counsel for the petitioner has been strongly opposed by learned counsel for the State. He has submitted that in an accident caused by the petitioner a life was lost and both the courts have found that the petitioner was guilty of rash and negligent driving. He has also relied upon a judgment passed by Hon'ble Supreme Court in the case of **State of Punjab vs. Saurabh Bakshi, 2015(2) R.C.R.(Crl.), 495** to contend that misplace sympathy in such cases is not appropriate and the courts must award appropriate sentence in such cases.

This court has carefully read the judgment relied upon by learned counsel for the State in the case of **State of Punjab vs. Saurabh Bakshi(supra)**.

In the aforesaid judgment cited, in an accident 2 lives were lost. It had come in evidence that the vehicle driven by the convict dragged the other vehicle to a considerable distance because of which the other vehicle fell in the ditch. In the aforesaid case, thus the period undergone by the convict which was only 24 days when the High Court reduced the same to undergone on payment of compensation was found inadequate. It was in

these circumstances the Hon'ble Supreme Court reduced the sentence to 6 months.

In the considered opinion of this Court, there is no parity with the facts of the aforesaid judgment cited and this case. In the present case, petitioner has already undergone 4 months and 11 days of actual sentence. No doubt, the menace of road accident is resulting in loss of life of citizens, however, a proper balance has to be maintained. It is not in dispute that the petitioner, although, is a professional driver, has never been convicted in any other such case. He is a first time offender. He is on bail since 29.11.2011 and there is no other case against the petitioner as per learned counsel for the petitioner which is not disputed by the learned State counsel. Now sending the petitioner behind bar at this stage, in the considered opinion of this Court, would be very harsh and inequitable. In the present case, petitioner-driver was also injured in the same accident.

Keeping in view the aforesaid facts while upholding the judgments passed by the courts below the sentence awarded is reduced to already undergone.

Disposed of accordingly.

**July 02, 2019**  
**nt**

**(ANIL KSHETARPAL)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

: Yes/No  
: Yes/No