

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

**CRR No.605 of 2020 (O&M)
Date of decision:23.09.2021**

Sanjay Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

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

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

SUVIR SEHGAL J.

Instant revision petition has been filed challenging judgment dated 05.02.2020, whereby, learned Additional Sessions Judge, Faridabad has upheld the conviction and sentence of the petitioner, under Sections 279, 337, 338 of Indian Penal Code, 1860 (for short "IPC").

Facts leading to filing of the instant petition are that on 01.08.2015, the petitioner, who was driving an Innova in a rash and negligent manner, hit a young girl, Ananya, outside her house and fled from the spot. FIR was registered on the statement of her uncle, Amarjit. After trial, the petitioner was found guilty and sentenced to six months rigorous imprisonment each under Sections 279/337/338 IPC, besides fine, with default stipulation. All sentence were ordered to run concurrently. Appeal filed by the petitioner has been dismissed

resulting into filing of instant petition.

At the outset, counsel for the petitioner has restricted the prayer in the petition to the release of the petitioner on probation by applying the provisions of Section 360 Cr.P.C. Counsel urges that the benefit of probation was declined by the trial Court by observing “the offence is serious one and loss of life is not to be taken so lightly, so as to let the accused of (sic off) the hook without any punishment”, which observation is factually incorrect as there was no loss of life and the injured had suffered a fracture. He urges that the Courts below failed to appreciate that petitioner is a first time offender, he has no criminal antecedents and there has been no complaint regarding his behaviour and compensation has been awarded to the injured under the Motor Vehicles Act, 1988.

State counsel has filed custody certificate dated 22.09.2021 and has opposed the prayer on the ground that the conduct of the petitioner does not justify his release on probation because instead of taking the injured to the hospital, the petitioner fled from the spot after the accident.

Heard.

Hon'ble Supreme Court in **Prem Chand Vs. The State of Himachal Pradesh 2017 ALL MR(Criminal) 5358 (SC)** has granted the benefit of probation to a convict in almost similar situation. Coordinate Benches of this Court in **Pawan Kumar Vs.**

State of Punjab 2002(3) AICLR 19 and Rafiq Vs. State of Haryana 2007(3) RCR (Criminal) 464 have in cases involving vehicular accident ordered the release of convict on probation, keeping in view their antecedents, conduct and family backgrounds.

Having considered the arguments of counsel for the parties, this Court is satisfied that the benefit of probation deserves to be extended to the petitioner. The total period of incarceration including remission suffered by the petitioner is 03 months and 05 days. He is a young man of 31 years of age, he is not a professional driver and neither he has any criminal background nor is he involved in any criminal case. He has family to support, besides there is no complaint regarding his conduct either in custody or during the pendency of the case and above all, he has been facing litigation for the last more than 06 years.

Keeping in view these facts and circumstances, while upholding the conviction, the sentence of imprisonment is set aside and the petitioner is ordered to be released on probation on his entering into a bond of Rs.50,000/- to keep peace and good behaviour for a period of two years and to appear and receive sentence when called upon to do so during such period in case of violation of any of the conditions of the bond, with one surety of like amount to the satisfaction of the trial Court/CJM, Faridabad. For this purpose, he shall appear before the trial Court/CJM within a period of one month

from date of receipt of certified copy of the order.

Petition is disposed of.

(SUVIR SEHGAL)
JUDGE

September 23, 2021
savita

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>