

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

CRR No.367 of 2021 (O&M)

Date of Decision:24.11.2023

Dharambir

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sanjeev Bhardwaj, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The petitioner by way of instant petition has approached this Court praying for setting aside the judgment dated 17.03.2021 passed by the learned Additional Sessions Judge, Panipat whereby the appeal preferred by him against the judgment of conviction dated 01.08.2018 and order of sentence dated 02.08.2018 passed by the learned Chief Judicial Magistrate, Panipat convicting the petitioner under Section 193 Cr.P.C. in the complaint case and sentencing him to undergo rigorous imprisonment for a period of 1 year was partly allowed and the order of sentence was reduced to 6 months.

2. In brief, the facts are that a criminal case bearing FIR No.3 dated 19.01.2014 was registered under Sections 7 and 13 of the Prevention of Corruption Act, 1988 at State Vigilance Bureau, Panipat against ASI Pawan Kumar posted at Police Station, Matlauda on the written complaint dated 19.01.2014 given by the petitioner-complainant. After investigation, ASI Pawan Kumar was sent for trial and was convicted vide judgment and order dated 13.10.2014 passed by the learned Special Judge/Additional Sessions Judge,

Panipat. However, during the course of trial, the petitioner, who appeared in the witness box as PW4, did not support the case of the prosecution and gave false evidence on oath before the trial Court. He admitted his signatures on the complaint Ex.P4 lodged by him with the Inspector Vigilance and statement Ex.PW11/B dated 21.01.2014 recorded by the learned Judicial Magistrate 1st Class, Panipat but he falsely deposed that his signatures were obtained by the Inspector Vigilance on blank papers and the statement before the learned Judicial Magistrate 1st Class was under pressure and not voluntary. Therefore, while convicting the accused ASI Pawan Kumar, the learned Special Judge/Additional Sessions Judge, Panipat finding a *prima facie* case against the petitioner ordered for a criminal complaint under Section 193 IPC to be filed against the petitioner before the Chief Judicial Magistrate, Panipat for giving false evidence before the Court. In the said complaint, the petitioner was found guilty for committing offence under Section 193 IPC by the trial Court and was sentenced to undergo rigorous imprisonment for a period of one year, which was reduced to six months in the appeal preferred by the petitioner before the learned Additional Sessions Judge, Panipat.

3. Learned counsel appearing for the petitioner submits that the judgments passed by both the Courts below are based on conjectures and surmises. It is further submitted that petitioner herein does not have any criminal antecedents and has old parents and family to look after. He is facing trial for the last five years and therefore, the Courts below ought to have considered the case of the petitioner for releasing him on probation under Section 361 of the Cr.P.C read with Sections 3 and 4 of the Probation of Offenders Act, 1958.

4. Per contra, learned State counsel supports the judgments passed by the Courts below while contending that the petitioner herein had misused and abused

the process of law by giving false evidence on oath before the Court and therefore, was rightly convicted and sentenced by the Courts below.

5. I have heard learned counsel for the parties and perused the paper book with their able assistance.

6. Section 3 and 4 of the Probation of Offenders Act empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. Similarly, Sections 360 and 361 of the Cr.P.C also empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. A two Judge Bench of the Hon'ble Supreme Court in ***Som Dutt and others Vs. State of Himachal Pradesh (2022) 6 SCC 722*** speaking through Justice Bela M. Trivedi, has held as under:-

“6....having regard to the fact there are no criminal antecedents against the appellants, the court is inclined to give them the benefit of releasing them on probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the appellants, it is directed that the appellants shall be released on probation of good conduct.....”

A two Judge Bench of the Hon'ble Supreme Court in ***Lakhvir Singh Vs. State of Punjab (2021) 2 SCC 763*** speaking through Justice Sanjay Kishan Kaul, has held as under:-

“6. We may notice that the Statement of Objects and Reasons of the said Act explains the rationale for the enactment and its amendments: to give the benefit of release of offenders on probation of good conduct instead of sentencing them to imprisonment. Thus, increasing emphasis on the reformation and rehabilitation of offenders as useful and self-reliant

members of society without subjecting them to the deleterious effects of jail life is what is sought to be subserved.”

7. In view of the aforesaid facts and circumstances, judgment passed by the learned Additional Sessions Judge, Panipat reducing the sentence of the petitioner to six months is upheld, however, having regard to the fact that there are no criminal antecedents against the petitioner and he has actually undergone sentence of 1 month 13 days out of total sentence of six months, this court is inclined to give him the benefit of probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the petitioner, it is directed that the petitioner shall be released on probation for good conduct on furnishing a personal bond of ₹10,000/- with surety of the like amount, and on further furnishing an undertaking to keep the peace and good behaviour for a period of one year, to the satisfaction of the concerned trial court. The petitioner shall remain under the supervision of the concerned Probation Officer during the aforesaid period. It is further directed that if the petitioner fails to comply with the said directions or commit breach of the undertaking given by him, he shall be called upon to undergo the sentence imposed upon him by the learned Additional Sessions Judge, Panipat.

8. With the aforesaid directions, the instant petition stands allowed.

(HARPREET SINGH BRAR)
JUDGE

November 24, 2023
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No