

came from the side and collided into the right side of his car. It was stated that the bus was being driven in a rash and negligent manner by its driver. Due to the said impact, the car in which the complainant was travelling lost control and further collided into a loaded tractor-trolley which was coming from the opposite side. Allegedly, due to the accident, all 4 persons travelling in the said car sustained injuries. Thereupon, they were taken to a hospital where one of the co-passenger of the complainant died. It was stated that the entire accident happened due to rash and negligent driving of the petitioner Kuldeep Singh who was driving the said offending bus. Upon the statement of the complaint, the FIR (supra) was registered. On finding a *prima facie* case for the commission of offences under Sections 279, 337, 304-A of IPC, charges were framed accordingly, to which he pleaded not guilty and claimed trial and was ultimately convicted.

3. Learned counsel for the petitioner *inter alia* submits that petitioner is 55-year old and does not have any criminal antecedents and that he has been facing agony of protracted trial for the last 24 years. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction on merits and restricts his prayer to modification of the order of quantum of sentence to that of the release of the petitioners on probation of good conduct. He also submits that the sentence of the petitioner was suspended by this Court vide order dated 07.03.2011.

4. Learned counsel for the respondent-State submits that he has no objection to the restricted prayer qua the petitioner, so long as his conviction is upheld. Upon asking, he submits that the petitioner has undergone a custody period of 01 month and 25 days of custody as per the custody certificate placed on record before this Court on 16.02.2024.

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.....”

7. 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.”

8. In view of the above, the judgment dated 13.07.2009 passed by learned Judicial Magistrate Ist Class, Rajpura as well as the judgement dated 14.01.2011 passed by learned Additional Sessions Judge, Patiala, whereby, the conviction of the petitioner was affirmed, are upheld. However, having regard for the fact that the petitioner has no criminal antecedents, this court is inclined to give him the benefit of probation of good conduct.

9. Consequently, while maintaining the conviction and sentence imposed on the petitioner, it is directed that the petitioner be released on probation for good conduct on furnishing a personal bond of Rs.20,000/- with a surety of the like amount, and on further furnishing an undertaking to keep the peace and good behaviour for a period of two years, to the satisfaction of the concerned trial court.

10. The petitioner shall remain under the supervision of the concerned Probation Officer(s) during the aforesaid period. It is further directed that if the petitioner fails to comply with the said directions or commits breach of the undertaking given by him, he shall be called upon to undergo the remaining period of sentence imposed upon him in the present case.

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

March 05, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |