



Government Medical College and Hospital, Sector 32, Chandigarh. The same was found in recording mode and contained videos of female doctors and nurses changing clothes. Subsequently, it was discovered that the mobile phone belonged to the petitioner, who worked as a Safai Karamchari at the hospital.

3. Learned counsel for the petitioner contended that the alleged incident occurred on 30.05.2015 and FIR (supra) was lodged that very day, however, the mobile was only taken into possession on 31.05.2015. Moreover, all the witnesses examined by the prosecution were either interested persons or official witness. No independent witness was examined to corroborate the narrative put forward by it.

4. *Per contra*, learned State counsel submitted that the petitioner has been convicted by the learned trial Court based on correct appreciation of the facts and the law. Moreover, the conviction has been upheld by the learned lower Appellate Court, as such interference by this Court is not warranted.

5. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it appears that the guilt of the petitioner has been adequately proved and the judgment of conviction does not warrant any interference. However, the petitioner is a disabled person and the only bread-winner of his family. He has been facing the agony of trial for the last 9 years. According to the custody certificate produced by the learned State counsel, the petitioner has undergone a period of 6 months and 19 days, including remission, out of the sentence of one year imposed upon him.

Therefore, in view of his clean antecedents, this Court finds the matter at hand



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to be a fit case for grant of probation. Sections 3 and 4 of the Probation of Offenders Act, 1958 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.”

6. Accordingly, the judgment dated 31.05.2024 passed by the learned Additional Sessions Judge, Chandigarh is upheld. However, in view of the discussion above, the petitioner is directed to be released on probation on furnishing a personal bond of Rs.20,000/- with a surety of the like amount. The petitioner is also directed to furnish an undertaking to keep the peace and good behaviour for a period of two years, to the satisfaction of the concerned



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trial court within a period of two weeks. 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, as mentioned above.

7. With the aforesaid directions, the present petition is disposed of.
8. Pending miscellaneous application(s), if any, shall also stand disposed of.

21.10.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No