



301

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 05.03.2025

1.

CRA-S-77-SB-2009 (O & M)

JASBIR SINGH AND OTHERS

...APPELLANTS

V/S

STATE OF PUNJAB

...RESPONDENT

2.

CRA-S-64-SB-2009

ANGREJ SINGH

...APPELLANT

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mehtab Singh Bhatti, Advocate
for the appellants. (Legal Aid Counsel)

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1.
- This order of mine shall dispose of both the above-mentioned appeals as both are arising from the same FIR. For the sake of brevity, facts are borrowed from *CRA-S-77-SB-2009* titled as *Jasbir Singh and others vs. State of Punjab*.
2.
- The instant appeal is preferred against the judgment of conviction and order of sentence dated 17.12.2008 passed by learned Additional Sessions Judge, Barnala in the case stemming from FIR No.108 dated 05.04.2003 registered under Sections 399/402 of IPC and 25 of Arms Act at Police Station Barnala. The appellants were sentenced as mentioned below:

Offence under Section(s)	Sentence
25 of Arms Act	RI for 01 year with a fine of Rs.1,000/- each, in default of payment of fine, to undergo RI for 02 months.



3. That brief facts of the case are that on 05.04.2003, Inspector Surinder Pal Singh along with police companions, in connection with patrolling and checking of suspected persons, was present at Handiaya Chowk, Barnala. SI Sukhdev Singh, SHO/PS Sadar, Barnala alongwith his police companions, had also reached the Handiaya Chowk, Barnala and they were associated in the police party, earlier present. At about 6.00 AM, secret information was received to the effect that Nirmal Singh, Joginder Singh, Palwinder Singh @ Titu, Gurmit Singh, Jagga Singh, Jasbir Singh @ Shira, Angrej Singh and Himmat Singh, while armed with weapons having collected at secluded Focal point, Sanghera and making preparation to commit dacoity regarding the salary of the employee to be withdrawn from the bank. If raid is conducted, the aforesaid persons alongwith weapons can be apprehended and can get information regarding the various dacoities committed by them. On the basis of secret information, FIR (*supra*) was registered and police party proceeded to the disclosed spot. Various police parties were formulated there and one person was seen fleeing towards the fields. He was identified by HC Balbir Singh to be Angrej Singh son of Duni Chand, who succeeded in fleeing away. The remaining seven persons were apprehended, who disclosed their names as Jasbir Singh, Gurmit Singh, Himmat Singh, Palvinder Singh, Nirmal Singh, Joginder Singh and Jagga Singh (all appellants herein except Nirmal Singh and Himmat Singh). Upon search of Jasbir Singh, from the right dub of his pant, one unloaded country made pistol 12 bore and from his right pocket of the shirt, three live cartridges of 12 bore were recovered. Upon search of Gurmit Singh, from his right dub of the *pajama*, one unloaded .38 bore country made revolver containing three live cartridges was recovered. Upon



search of Palvinder Singh, a pistol 315 bore, containing one live cartridge of same bore, in the left dub of his *pajama* was recovered. From his right pocket of shirt, two live cartridges of same bore were also recovered. From Nirmal Singh, one pistol of 315 bore, containing one live cartridge of the same bore, was recovered. From his left pocket of pant, two live cartridges of the same bore were also recovered. From Jagga Singh, one unloaded country made 315 bore pistol from the right dub of his pant and from his pocket of the shirt, two live cartridges of the same bore were recovered. From Joginder Singh, one unloaded pistol 12 bore country made, from the right dub of his pant and from front pocket of his shirt, three live cartridges of the same bore were recovered. Thereafter all the accused persons were apprehended in this case.

4. After assessing the material available on record, the learned trial Court convicted and sentenced the appellants vide judgment and order dated 17.12.2008. Aggrieved by the same, the appellants preferred the present appeals.

5. Learned Legal Aid Counsel for the appellants *inter alia* contends that there are material contradictions and improvements in the case set up by the prosecution and the appellants have been falsely implicated in the present case. Further, the testimony of independent witness Gani Khan has been completely discarded by the police as his version is contrary to the prosecution version. Furthermore, it is highly improbable that the appellants along with co-accused were armed with deadly weapons and they have shown no resistance while the police tried to arrest them. As such, the prosecution has failed to prove its case beyond the shadow of reasonable doubt.



6. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the appellants and submits that they have been convicted by the learned trial Court based on correct appreciation of the facts and the law. As such interference by this Court is not warranted.

7. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that appellants are facing the agony of protracted trial for the last about 22 years. Since their conviction, the appellants have grown into law-abiding citizens and desire to live a peaceful life.

8. 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.”

Further still, a two Judge Bench of the Hon'ble Supreme Court in ***Lakahnlal @ Lakahn Singh vs. State of Madhya Pradesh (2021) 6 SCC 100*** has opined as follows:

“15. We find that the attention of the Court was not drawn to sub Section (10) of Section 360 which provides that Section 360 will not affect the provisions of 1958 Act or other similar laws for the time being in force for the treatment, training or rehabilitation of youthful offenders. Still further, Section 4 of the 1958 Act has a non obstante clause, giving overriding effect over any other provisions of law.

16. The conjoint reading of the provisions of both the statutes, we find that the provisions of Section 360 of the Code are in addition to the provisions of the 1958 Act or the Children Act, 1960, or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders”

9. The Hon'ble Supreme Court in ***Bishnu Deo Shah Vs. State of West Banal AIR 1979 SC 964*** has laid down that it is obligatory on the part of the Court to deal with a convict under the provisions of Section 360 of the Cr.P.C., if he is not convicted for an offence punishable with death penalty or imprisonment for life and additionally, if he is not a previous convict. The overarching object of the provision contained in Section 4 and 6 of the Act and Section 360 and 361 of Cr.P.C. is to provide an opportunity to the first time offenders to reform and not expose them in association with the hardened and habitual criminal inmates incarcerated in the judicial custody.

10. In view of the facts and circumstances of the case, the instant appeals are disposed of in the following terms:-

- 1) The judgment of conviction dated 17.12.2008 passed by learned Additional Sessions Judge, Barnala, is upheld.



- 2)

The order of sentence dated 17.12.2008 passed by learned Additional Sessions Judge, Barnala, is modified to the extent of granting the concession of probation to the appellants for good conduct.
- 3)

The appellants shall be released on probation for good conduct on furnishing a personal bond of Rs.10,000/- each with a surety for the same amount within four weeks, after furnishing an undertaking to keep the peace and good behaviour for a period of one year to the satisfaction of the concerned trial Court.
- 4)

The appellants shall remain under the supervision of the concerned Probation Officer during the aforesaid period. If the appellants fail to comply with the said directions or commit breach of the undertaking rendered by them, they shall be called upon to undergo the sentence imposed upon them by the learned trial Court.
11.

High Court Legal Services Committee is directed to pay remuneration to learned Legal Aid Counsel for the appellant(s) as per rules.
12.

A photocopy of this order be placed on the file of other connected case.
13.

Pending miscellaneous application(s), if any, also stand(s) disposed of.

March 05, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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