

**CRR-2194-2006 (O&M)****1****203****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-2194-2006 (O&M)****Date of Decision: 10.03.2025****AMARJIT SINGH****...Petitioner****Versus****STATE OF UT CHANDIGARH****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. Ravish Bansal, Advocate
for the petitioner.****Mr. A.K. Lamdharia, Standing Counsel
for UT Chandigarh.***********Harpreet Singh Brar, J. (Oral)**

1. This revision petition has been filed against the judgment dated 14.10.2006 passed by learned Additional Sessions Judge, Chandigarh vide which judgment of conviction and order on quantum of sentence dated 24.03.2001 passed by learned Judicial Magistrate Ist Class, Chandigarh have been upheld, whereby the petitioner has been convicted and sentenced as under:

Offence under Sections	Sentence	Fine	Sentence in default of payment of fine
279 of Indian Penal Code	Rigorous imprisonment for six months	-	-
338 of Indian Penal Code	Rigorous imprisonment for one year	Rs. 500/-	Rigorous imprisonment for 02 months

2. In brief, the facts of the prosecution case are that on 09.05.1995 at about 9.20 PM complainant Bhajan Singh was going on Scooter bearing registration No.CHN-3622 towards his house in Village Dhanas from Sector 22 Chandigarh along with his relative Sujinder Singh who was on the pillion seat.

As per the complainant, when they reached near Kisan Bhawan Chowk one Jeep

**CRR-2194-2006 (O&M)****2**

bearing registration No.CHK-9304 came from the side of Kisan Bhawan Chowk in the wrong side and the petitioner was driving the same in a rash and negligent manner and struck the Jeep with his Scooter as a result of which the complainant fell down and suffered injuries. The petitioner himself disclosed his name to the complainant. Thereafter, the complainant was taken to Hospital with the help of Sujinder Singh and information of the same was sent to the Police. SI Hazura Singh reached at the spot and thereafter went to P.G.I. Chandigarh after taking opinion of the Doctor, recorded the statement of the complainant in which the complainant alleged that the accident in question took place because of the rash and negligent driving of the petitioner who brought his Jeep towards the wrong side and hit it with his Scooter. Accordingly, the FIR was registered and the investigations were initiated.

3. After assessing the material available on record, the learned trial Court convicted and sentenced the petitioner vide judgment of conviction and order of sentence dated 24.03.2001. Aggrieved by the same, the petitioner preferred an appeal before the learned Appellate Court, which was dismissed vide judgment dated 14.10.2006.

4. Learned counsel for the petitioner submits learned Courts below have gravely erred in convicting the petitioner under Sections 279 and 338 of Indian Penal Code as there is delay in lodging the FIR. Learned counsel further contends that there are contradictions and discrepancies in the testimonies of material witnesses. Learned counsels further submit that the petitioner is not involved in any other case and prayer is made that petitioner may be released on probation of good conduct.

5. *Per contra*, learned State counsel opposes the prayer made by

Learned counsel for the petitioner and submits that the petitioner has been



CRR-2194-2006 (O&M)

3

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.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that FIR was registered on 09.05.1995 and the petitioner has been suffering the agony of trial since the last more than 29 years and the petitioner is 58 years of age.

7. Section 3 and 4 of the Probation of Offenders Act, 1958 (hereinafter to be referred to as 'the Act') empowers the Courts to release the convicts if deemed appropriate in view of circumstances of the case. Similarly, Sections 360 and 361 of the Cr.P.C also allows the Courts to release convicts on probation for 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 petitioners, 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 petitioners, it is directed that the petitioners 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



CRR-2194-2006 (O&M)

4

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”

8. 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.

9. In view of the facts and circumstances of the case, the instant petition is disposed of, in the following terms:-

1. The judgment of conviction dated 14.10.2006 passed by the learned Additional Sessions Judge, Chandigarh, is upheld.
2. The order of sentence dated 24.03.2001 passed by the learned Judicial Magistrate Ist Class, Chandigarh is modified to the

**CRR-2194-2006 (O&M)****5**

extent of granting the concession of probation to the petitioner for good conduct.

3. The petitioner shall be released on probation for good conduct on furnishing a personal bond of Rs.10,000/- with a surety for the same amount, 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, within four weeks.

4. The petitioner shall remain under the supervision of the concerned Probation Officer during the aforesaid period. If the petitioner fails to comply with the said directions or commit breach of the undertaking rendered by him, he shall be called upon to undergo the sentence imposed upon him by the learned trial Court.

10. Needless to say in view of the Section 12 of Probation of Offenders Act, judgment dated 14.10.2006 passed by learned Additional Sessions Judge, Chandigarh and judgment of conviction and order on quantum of sentence dated 24.03.2001 passed by learned Judicial Magistrate Ist Class, Chandigarh, shall not be a hurdle to petitioner, in any way, to get retiral benefits and other service benefits to which he is entitled to.

(HARPREET SINGH BRAR)
JUDGE

10.03.2025*Ajay Goswami**Whether speaking/reasoned
Whether reportable**Yes/No
Yes/No*