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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1794-2007
Date of decision: 06.05.2025

OM PARKASH

V/S

...PETITIONER

STATE OF HARYANA

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Jattana, Advocate for
Mr. Ramesh Chahal, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision is preferred against the judgment dated 13.09.2007 passed by learned Additional Sessions Judge, Rewari, whereby the judgment of conviction dated 28.10.2003 and order of sentence dated 30.10.2003 passed by the learned Chief Judicial Magistrate, Rewari, have been upheld in the case stemming from FIR No.349 dated 08.10.1998 registered under Sections 279/304-A of IPC at Police Station Sadar Rewari. The petitioner was sentenced as mentioned below:

Offence under Section(s)	Sentence
304-A of IPC	RI for one year with a fine of Rs.5,000/- in default of which, to undergo imprisonment for 03 months.
279 of IPC	RI for 06 months .

It was ordered that both sentences shall run concurrently.

2. In brief, the case of the prosecution is that the complainant Narender Kumar stated that on 08.10.1998 at about 7:45 AM, when he along



with one Raghubinder was waiting for the bus at bus stand, Bikaner and standing on their right side, a bus bearing No.HR-47-1679 came from Rewari side, driven in rash and negligent manner, struck against Raghubinder and he died on the spot. Hence, FIR (*supra*) was registered.

3. After assessing the material available on record, the learned trial Court convicted and sentenced the petitioner vide judgment and order dated 28/30.10.2003. Aggrieved by the same, the petitioner preferred an appeal, before learned lower Appellate Court, which was also dismissed.

4. Learned counsel for the petitioner contends that the learned Courts below have fell into grave error by convicting the petitioner. He further contends that the identity of the accused/petitioner could not be established by the prosecution. Furthermore, name of the bus driver i.e. petitioner was not mentioned in the FIR (*supra*). Moreover, PW-1, namely, Jitender (real brother of deceased) and PW-7, namely, Narender have not supported the case of the prosecution.

5. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the petitioner and submits that he 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.

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that petitioner is facing the agony of protracted trial for the last more than 26 years. Since his conviction, the petitioner has grown into law-abiding citizen and desires to live a peaceful life. Moreover, the petitioner has already undergone custody period of one month and eight days.



7. 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”*

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 Sections 4 and 6 of the Act and Sections 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 revision petition is disposed of in the following terms:-

- 1) The judgment dated 13.09.2007 passed by learned Additional Sessions Judge, Rewari confirming the conviction of the petitioner is upheld.
- 2) The order of sentence dated 30.10.2003 passed by learned Chief Judicial Magistrate, Rewari, is modified to the 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 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 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 of conviction and order of sentence dated 28/30.10.2003 passed by learned Chief Judicial Magistrate, Rewari, which have been upheld by learned Additional Sessions Judge, Rewari, vide judgment dated 13.09.2007, shall not be a hurdle to petitioner, in any way, to get retiral benefits and other service benefits to which he is entitled to.

May 06, 2025
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(HARPREET SINGH BRAR)
JUDGE

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