

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

201

CRR-2482-2011 (O&M)
Date of decision: 19.05.2025

Prem Kumar

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

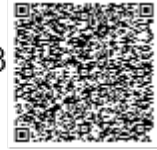
Present: Mr. S.S. Salar, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

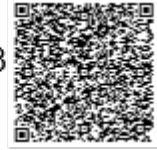
1. The petitioner seeks to set-aside the judgment of conviction and order of sentence dated 30.09.2011, passed by learned Sessions Judge, Patiala, wherein he was convicted under Section 16(1A)(a)(i) of the Prevention of Food Adulteration Act, 1954 and sentenced to undergo rigorous imprisonment for 01 year and to pay a fine of ₹2,500/-, along with the default mechanism.

2. The brief facts of the case are that a complaint was filed against the petitioner under Section 16 of the Prevention of Food Adulteration Act, 195, wherein it is alleged that on 13.07.2007 at about 08:50 PM, during a raid conducted by a team comprising Dr. Ranjit Singh, Medical Officer-cum-Food Inspector, Dr. Satnam Singh, Dr. Daljit Singh, Lakhwinder Singh, and Peon Sher Singh from the office of the Local Health Authority, Patiala, the petitioner, Prem Kumar, was found in possession of 17 sealed glass bottles of "Lehar Pepsi," each



containing 250 ml, which were intended for sale and human consumption. Upon disclosing their identity, the raiding team purchased six sealed bottles from the petitioner for Rs.24/-. The petitioner was served with a notice in Form VI for the analysis of the samples, which were separately sealed in accordance with the prescribed rules. A spot memo, along with necessary documentation such as sample marking, was prepared at the spot. The samples were sealed with an impression marked "RS/22/07" and were subsequently sent to the office of the Local Health Authority, Patiala, and to the office of the Public Analyst, Chandigarh. Upon receipt of the analysis reports and after serving copies thereof on the accused, and upon completion of all other requisite formalities of the investigation, a complaint was filed before the Court against the petitioner.

3. Learned counsel for the petitioner submits that the judgment passed by the learned Lower Appellate Court is based on conjectures and surmises. He further submits that he does not challenge the impugned judgment of conviction dated 30.09.2011 on merits but restricts his prayer to the extent that the petitioner be granted the benefit of probation. He further contends that earlier in terms of Section 20-A of the Food Adulteration Act, 1954, the probation of the offenders under the provisions of Food Adulteration Act, 1954 was completely forbidden, however, the earlier Act was repealed and new Act was implemented in the year 2007 and the present complaint has been filed against the petitioner in the year 2007. The alleged offence was committed on 13.07.2007, as such the petitioner be released on

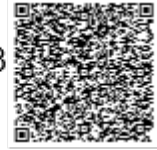


probation because the provisions of the Act of 2007 would apply in the present case. In support of his contention, learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in ***"Nagarajan and another vs The State of Tamil Nadu"***, ***passed in Criminal Appeal No.1390 of 2025, decided on 15.05.2025***. Lastly, he submits that the petitioner has undergone actual sentence of 03 months and 22 days out of 01 year RI and he is not involved in any other case.

4. *Per contra*, learned State counsel opposes the prayer made by the petitioner and submits that the petitioner has been convicted by the learned Lower Appellate Court based on correct appreciation of the facts and the law, as such interference by this Court is not warranted. However, learned State counsel does not object to the restricted prayer made by learned counsel for the petitioner for releasing the petitioner on probation.

5. After hearing the arguments and perusing the records, the Court notes that Sections 3 and 4 of the Probation of Offenders Act empower the Courts to release the offenders/convicts on probation of good conduct if deemed appropriate in view of circumstances of the case. Similarly, Sections 360 and 361 of the Cr.P.C, also empowers the Courts to release the offenders 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



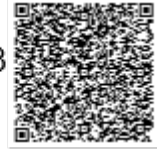
antecedents against the appellants, the Court is inclined to give them the benefit of releasing them on probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the appellants, it is directed that the appellants shall be released on probation of good conduct.....”

6. 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.”

7. 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. After considering the facts and circumstances, having regard to the fact that there are no criminal antecedents against the petitioner and he has been facing the agony of trial since 2008. He has undergone the actual sentence of 03 months and 22 days out of total sentence of 01 year, this Court is inclined to give him the benefit of probation for good conduct.

10. In that view of the matter, the instant revision petition stands disposed of with the following directions:-



- *The judgment dated 30.09.2011 passed by the learned Sessions Judge, Patiala, confirming the conviction of the petitioner is upheld.*
- *The order of sentence dated 30.09.2011 passed by the learned Sessions Judge, Patiala is modified to the extent of granting the concession of probation to the petitioner for good conduct.*
- *The petitioner shall be released on probation for good conduct, subject to furnishing a personal bond of Rs. 10,000/-, with a surety of the like amount.*
- *The petitioner shall submit an undertaking to maintain peace and good behavior for a period of one year, to the satisfaction of the learned trial court, within four weeks from today.*
- *The petitioner shall remain under the supervision of the concerned Probation Officer during this probationary period.*
- *In the event of non-compliance with the directions or any breach of the undertaking, the petitioner shall be liable to undergo the sentence originally imposed.*

11. All the pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

19.05.2025

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No