



CRR-238-2016 (O&M) and one more case

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

CRR-238-2016 (O&M)

Date of Decision: 23.01.2025

DALSHER SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CRR-480-2016 (O&M)

Date of Decision: 23.01.2025

SATYAWAN AND ANOTHER

...Petitioners

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Mor, Advocate
for the petitioner(s).

Mr. Nitesh Sharma, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. This common order shall dispose of aforementioned two revision petitions as similar order dated 07.12.2012 passed by learned Judicial Magistrate Ist Class, Samana has been challenged in both the petitions.

2. The present petition is preferred against the judgment of conviction and order on quantum of sentence dated 07.12.2012 passed by learned Judicial Magistrate Ist Class, Samana vide which petitioners have been convicted under Sections 61(1) (a) (b) & (c) of Punjab Excise Act and awarded substantive sentence of one year with total fine of Rs. 1,000/- with default mechanism and the said judgment was upheld by learned Additional Sessions Judge, Patiala vide judgment dated 04.01.2016.

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3. Brief facts as per case of the prosecution are that on 11.10.2009, the police party was on patrolling duty in the area of T-point of Dhabi Gujran, that on getting secret information when they raided the fields of the accused-petitioners they were caught red handed while distilling illicit liquor in the working still. Lahan as well as bottles of illicit liquor were also recovered from the accused. Case property was taken into possession. Ruqa was sent and an FIR was registered against the accused. During investigation statements of the witnesses were recorded, site plan and recovery memo were prepared and other evidence was collected.

4. Learned counsel for the petitioners contends that both the Courts below have not extended the benefit of the provisions contained in Section 4 and 11 of the Probation of Offenders Act, 1958 to the petitioners. The petitioners have suffered the agony of trial for the last 15 years as the FIR(supra) was registered on 11.10.2009. Therefore, learned counsel further submits that he is not assailing the impugned judgment of conviction dated 04.01.2016 passed by learned Additional Sessions Judge, Patiala on merits and restricts his prayer to modification of the order on quantum of sentence dated 07.12.2012 to that of the release of the petitioners on probation of good conduct and urged the Court to take a lenient view of the matter as the petitioners have reformed and intend to live their life as law-abiding citizens.

5. Per contra, learned State counsel opposes the prayer of the petitioners on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, they do not deserve any leniency. However, he could not controvert the fact that the petitioners are not involved in any other case.

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6. I have heard learned counsel for the parties and perused the paper book with their able assistance.

7. Section 3 and 4 of the Probation of Offenders Act empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. Similarly, Sections 360 and 361 of the Cr.P.C (401 and 402 of BNSS) also 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 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 deleterious effects of jail life is what is sought to be subserved.”

8. In view of the aforesaid facts and circumstances, the judgment passed by the learned Additional Sessions Judge, Patiala confirming a substantive sentence of one year under Sections 6 (1) (a) (b) & (c) of Punjab Excise Act is upheld, however, having regard to the fact that the petitioners have no

Criminal antecedents, this court is inclined to give them the benefit of probation

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of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the petitioners, they are ordered to be released on probation of good conduct on furnishing personal bond of Rs. 10,000/- each with a surety of the like amount, and on further 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 a period of two weeks. The petitioners shall remain under the supervision of the concerned Probation Officer(s) during the aforesaid period. It is further directed that if the petitioners fails to comply with the said directions or commit breach of the undertaking given by them, they shall be called upon to undergo the sentence imposed upon them by the learned Additional Sessions Judge, Patiala.

9. With the aforesaid directions, the instant petition stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

23.01.2025*Ajay Goswami*

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>