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IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRR-998-2014 (O&amp;M)

Date of Decision: 23.01.2025

GURBARINDER SINGH @ GURBRINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deepak Aggarwal, Advocate and Mr. Veneet Sharma, Advocate  
for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

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Harpreet Singh Brar, J. (Oral)

1. The present revision petition has been preferred against the judgment dated 16.12.2013 passed by learned Additional Sessions Judge, Amritsar whereby the judgment and order of sentence dated 02.02.2013 passed by learned Judicial Magistrate Ist Class, Amritsar convicting the petitioner under Section 13 of Public Gambling Act and imposing a fine of Rs. 50/- were upheld and appeal filed against the said judgment of conviction was dismissed being non-maintainable.

3. Brief facts of the prosecution case are that on 02.07.2008 ASI Prem Pal along with other police officials were on routine patrolling duty and were present at chowk, Ram Talai where he received a secret information that near Bamrah Petrol Pump in the court yard of Sumit Transport, Jaigopal, Amrik Singh, Harjinder Singh, Gurbinder Singh (petitioner herein), Jashanjeet Singh and Chattarjeet Singh are playing *Darra Satta* and if raid is conducted they can

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be caught red handed. The information being trustworthy, a raid was conducted. All the above named accused were arrested. Police tried to join an independent witness before personal search of the accused but none came forward. ASI Prem Pal Singh asked about their whereabouts and they told their names as Jaigopal, Amrik Singh, Harjinder Singh, Gurbinder Singh (petitioner herein), Jashanjeet Singh and Chattarjeet Singh. From the personal search of accused Jaigopal, one Nokia mobile phone model 6300, from Amrik Singh one mobile nokia model 6325, from Harjinder Singh one mobile Nokia, from Gurbinder Singh one mobile Nokia model 1650, from Jashanjeet Singh one mobile phone Nokia model 2600 and from Chatarjit Singh one mobile of Samsung were recovered. Rs. 13,390/- of Indian currency notes and 52 playing cards were recovered from threshing floor which were taken into police possession. Formal FIR was registered.

4. On assessing all the material available on the record, the learned trial Court convicted the petitioner along with other co-acussed vide judgment dated 02.02.2013 under Section 13/3/67 of Gambling Act and vide order of sentence of even date imposed a fine of Rs. 50/- each upon all the accused persons. Aggrieved by the same, the petitioner preferred an appeal before the learned lower Appellate Court and learned Additional Sessions Judge, Amritsar vide judgment dated 16.12.2013 dismissed the appeal filed by the petitioner and upheld the order of conviction passed by the trial Court.

5. Learned counsel for the petitioner(s) contends that the learned Courts below fell into error by convicting the petitioner under Section 13/3/67 of Gambling Act and as while passing the judgment of conviction, learned trial Court has not taken into consideration that although it was a case of secret

information, no independent witness was joined and the case of the prosecution



solely rests upon the statements of the official witnesses. Moreover, the case of the prosecution is that secret information was received to the effect that petitioner along with co-accused were playing '*Darra Satta*' whereas from the spot of occurrence only playing cards were recovered and merely playing cards and the money in possession of accused persons, is not sufficient to convict the petitioner under Section 13 of Gambling Act. Learned counsel for the petitioner further 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 petitioner. The petitioner has suffered the agony of trial for the last 16 years as the FIR(supra) was registered on 02.07.2008. Therefore, learned counsel further submits that he is not assailing the impugned judgment of conviction dated 16.12.2013 passed by learned Additional Sessions Judge, Amritsar on merits and restricts his prayer to modification of the order on quantum of sentence dated 02.02.2013 to that of the release of the petitioner on probation of good conduct and urged the Court to take a lenient view of the matter as the petitioner has reformed and intend to live his life as a law-abiding citizen.

6. Per contra, learned State counsel opposes the prayer of the petitioner 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, he does not deserve any leniency.

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

8. 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



(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.”*

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 Code of Criminal Procedure, if he is not convicted for an offence punishable with death penalty or imprisonment for life and additionally he is not a previous convict and further the overarching object of the provision contained in Section 4 and 6 of the Probation of Offenders' Act 1958 (hereinafter to be referred to as 'the Act of 1958') 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.

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Thus, keeping in view the antecedents of the petitioner and the fact that he is not a previous convict, it is obligatory upon the Court to extend the benefit of Probation of Offenders Act to the convict.

9. In view of the aforesaid facts and circumstances, the judgment passed by the learned Additional Sessions Judge, Amritsar is upheld in view of the provision contained in Section 376 of Cr.P.C. However, having regard to the fact that the petitioner has no criminal antecedents, this court is inclined to give him the benefit of probation for good conduct. Accordingly, he is ordered to be released on probation on furnishing a personal bond of Rs. 10,000/- 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 four weeks. The petitioner shall remain under the supervision of the concerned Probation Officer(s) during the aforesaid period. It is further directed that if the petitioner fails to comply with the said directions or commit breach of the undertaking given by him, he shall be liable to pay the fine as imposed upon him by learned Judicial Magistrate Ist Class, Amritsar.

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

**(HARPREET SINGH BRAR)**  
**JUDGE**

**23.01.2025***Ajay Goswami*

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