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irregularities with deceitful intention to cause harm to public money as well as to the bank and committed frauds. Upon instructions from the bank, inquiry was conducted where the petitioner was found guilty of committing fraud by opening fictitious accounts and siphoned off huge amount of money. He also tampered with the office record. On the basis of said application, FIR No.21 dated 13.01.2009 was registered under Sections 409 and 420 IPC at Police Station Sector 39, Chandigarh.

4. After assessing the material available on record, the learned trial Court convicted and sentenced the petitioner vide judgment and order dated 06.10.2015. Aggrieved by the same, the petitioner preferred an appeal before the learned Appellate Court, which was dismissed vide judgment dated 22.11.2016.

5.. Learned counsel for the petitioner submits that the judgment passed by the learned trial Court is based on conjectures and surmises. It is contended that the petitioner has no criminal antecedents and has family responsibilities. Further, the petitioner has been facing trial for the last more than 16 years, and as such, the learned Courts below should have considered releasing him on probation under Section 361 Cr.P.C. read with Sections 3 and 4 of the Probation of Offenders Act, 1958.

6. Learned counsel for the petitioner further submits that he does not challenge the impugned judgment of conviction dated 06.10.2015 on merits but restricts his prayer to modification of the order on the quantum of sentence and seeks the petitioner's release on probation in view of his age and good conduct.

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



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learned State counsel does not object to the restricted prayer made by learned counsel for the petitioner for releasing the petitioner on probation.

8. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, 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 empower 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.....”

9. 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.”



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10. 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".

11. 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.

12. After considering the facts and circumstances, having regard to the fact that there are no criminal antecedents against the petitioner and he has actually undergone sentence of 07 months and 06 day out of total sentence of 03 years, this Court is inclined to give him the benefit of probation for good conduct.

13. In that view of the matter, the instant revision petition stands



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disposed of with the following directions:-

- The judgment dated 22.11.2016 passed by the learned Addl. Sessions Judge, Chandigarh, confirming the conviction of the petitioner is upheld.
- The order of sentence dated 06.10.2015 passed by the learned Judicial Magistrate Ist Class, Chandigarh 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, within four weeks.
- 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.
- 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.

12. Needless to say, in view of the Section 12 of Probation of Offenders Act, judgment of conviction and order of sentence dated 06.10.2015 passed by learned trial Court and judgment dated 22.11.2016 passed by learned Addl. Sessions Judge, 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.

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

29.04.2025
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Whether speaking/non-speaking?
Whether reportable?

(HARPREET SINGH BRAR)
JUDGE

Yes/No
Yes/No