



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

245

CRR-2041-2017 (O&M)

Date of decision: 10.11.2025

Kala Singh

...Petitioner(s)

VERSUS

State of Punjab

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Rahul Arora, Advocate for the petitioner(s).

Mr. Mohit Kapoor, Sr. DAG Punjab.

Mr. Gurmeet S. Saini, Advocate for the complainant.

VINOD S. BHARDWAJ, J. (Oral)

The present revision petition had been filed against the judgment of conviction and order of sentence dated 15.02.2017 passed by the Chief Judicial Magistrate, Ferozepur, in case bearing Challan No.94-1 of 19.03.2012 in FIR bearing No. 252 dated 28.09.2012 registered under Sections 279/337/338/427 of the Indian Penal Code, 1860 at Police Station City, Ferozepur as well as the dismissal of the appeal vide judgment dated 18.05.2017 passed by Addnl Sessions Judge, Ferozepur.

2. Vakalatnama on behalf of the petitioner has been filed today in the Court and the same is taken on record.

3. Briefly summarized, the case of the prosecution is that the present FIR was registered against the accused, on the statement of one Lakhwinder Singh, on the allegations that on 26.09.12, he alongwith Gurjit



Singh, son of Mohinder Singh were going back to their village at about 8/8.30 pm, from Ferozepur Cantt. and when they reached a little ahead of Udham Singh Chowk, then a white colour car make Swift bearing RC No.DL8CR 0904, came from the opposite side at a very high speed, which was driven by Kala Singh, son of Falak Singh, in a rash and negligent manner, without blowing horn and the driver struck the car in the motorcycle bearing RC No.PB05-S-1639, being driven by the complainant. It is further averred in the statement that as a result of collision, complainant and his companion Gurjit Singh, received multiple injuries and they both fell on the ground and they were got admitted in civil hospital, Ferozepur. It is further averred that due to severe nature of injuries, they were referred to GGS Medical College, Faridkot, wherefrom, he was sent back to civil hospital, Ferozepur, after giving necessary medical treatment. However, Gurjit Singh remained admitted in GGS Medical College for treatment. On the basis of this statement dt.28.09.12, present FIR was registered against the accused and the investigation was initiated. On completion of investigation, challan was presented in the court.”

4. In order to prove the guilt of accused, prosecution examined HC Nirmal Singh as PW1, Lakhwinder Singh, complainant/injured as PW2, SI Harbhajan Singh, IO as PW3, HC Kuldeep Singh as PW4, Manjinderpreet Singh, Sr. Assistant as PW5, Ashok Kumar Retd Head Mechanic as PW6, Hansa Singh as PW7 and thereafter prosecution evidence was concluded vide order dated 17.11. 2016.

5. After conclusion of evidence, statement under Section 313



Cr.P.C. was recorded. Even though an opportunity was granted to lead defence evidence but no evidence was led by the petitioner.

6. After going through the evidence recorded and considering the arguments advanced by the contested parties, the Chief Judicial Magistrate, Ferozpur convicted/sentenced the petitioner vide judgment/order dated 15.02.2017. The punishment awarded is as under:-

Offence U/s	Sentenced
279 I.P.C.	Rigorous imprisonment of six months and a fine of Rs.500/-. In default thereof, to undergo further rigorous imprisonment for 15 days.
337 I.P.C.	Rigorous imprisonment of six months and a fine of Rs.500/-. In default thereof, to undergo further rigorous imprisonment for 15 days.
427 I.P.C.	Rigorous imprisonment of three months.

7. Aggrieved of the said judgment of conviction and order of sentence dated 15.02.2017, the petitioner preferred appeal before the Court of Sessions Judge, Ferozpur, which was dismissed by the Additional Sessions Judge, vide judgment dated 18.05.2017. Hence, the present revision petition.

8. Learned counsel for the petitioner submits that since both the Courts have concurrently recorded findings of fact against the petitioner, he does not wish to assail the conviction on merits and confines his prayer against sentencing and prays for the grant of benefit of probation, as the pre-requisites for the same stand duly satisfied. He submits that while passing



the impugned judgments, the Courts below have not taken into account the mitigating circumstances warranting consideration of the petitioner for grant of probation. It is contended that the petitioner is nearly 44 years of age and is not involved in any other criminal case. The incident in question, according to the learned counsel, does not reflect any element of criminality but rather appears to be an unfortunate accident arising out of the given factual circumstances. He further submits that the act attributed to the petitioner cannot be construed as indicative of a criminal mindset. It is, therefore, submitted that his conduct does not reflect any disposition that would pose a threat or danger to society at large, thereby justifying consideration for the benefit of probation.

9. Counsel for the respondent-State does not dispute the mitigating circumstances referred to by the petitioner in support of his claim for grant of probation.

10. Learned counsel appearing on behalf of the complainant submits that he has no objection, if the aforesaid prayer of the petitioner is allowed.

11. I have heard learned counsel for the parties and have gone through the impugned judgments.

12. Before considering the plea of the petitioner for grant of probation, the legal position for availing the benefit of probation needs to be kept in mind.

13. As per the settled principles of law governing the grant of probation, the benefit of probation is ordinarily extended to cases where the



circumstances indicate a deviation from the law, rather than a demonstration of inherent criminal propensity or conduct reflecting a hardened or incorrigible disposition. The object of the Probation of Offenders Act is reformatory and rehabilitative not punitive and aims to reintegrate an offender into the mainstream of society where such reintegration appears feasible. The aim and object of the Probation Act came to be decided by the **Hon'ble Apex Court** in the case of **Jugal Kishore Prasad v. State of Bihar** reported as **(1972) 2 SCC 633**. Hon'ble Supreme Court while considering the scope of the Probation Act has held as under :

“6. *The Probation of Offenders Act was enacted in 1958 with a view to provide for the release of offenders of certain categories on probation or after due admonition and for matters connected therewith. The object of the Act is to prevent the conversion of youthful offenders into obdurate criminals as a result of their association with hardened criminals of mature age in case the youthful offenders are sentenced to undergo imprisonment in jail. The above object is in consonance with the present trend in the field of penology, according to which effort should be made to bring about correction and reformation of the individual offenders and not to resort to retributive justice. Modern criminal jurisprudence recognises that no one is a born criminal and that a good many crimes are the product of socio- economic milieu. Although not much can be done for hardened criminals,*



considerable stress has been laid on bringing about reform of young offenders not guilty of very serious offences and of preventing their association with hardened criminals. The Act gives statutory recognition to the above objective. It is, therefore, provided that youthful offenders should not be sent to jail, except in certain circumstances. Before, however, the benefit of the Act can be invoked, it has to be shown that the convicted person even though less than 21 years of age, is not guilty of an offence punishable with imprisonment for life. This is clear from the language of Section 6 of the Act. Sub-section (1) of that section reads as under:

“When any person under twenty-one years of age is found guilty of having committed an offence punishable with imprisonment (but not with imprisonment for life), the Court by which the person is found guilty shall not sentence him to imprisonment unless it is satisfied that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it would not be desirable to deal with him under Section 3 or Section 4, and if the Court passes any sentence of imprisonment on the offender, it shall record its reasons for doing so.”

14. The aforesaid position was reiterated by **Hon’ble Supreme Court** in the case of **Chellammal and Another v. State** reported as **2025**



SCC Online SC 870. The relevant extract of the judgment is as under:

“26. On consideration of the precedents and based on a comparative study of Section 360, Cr. P.C. and subsection (1) of Section 4 of the Probation Act, what is revealed is that the latter is wider and expansive in its coverage than the former. Inter alia, while Section 360 permits release of an offender, more twenty-one years old, on probation when he is sentenced to imprisonment for less than seven years or fine, Section 4 of the Probation Act enables a court to exercise its discretion in any case where the offender is found to have committed an offence such that he is punishable with any sentence other than death or life imprisonment. Additionally, the non-obstante clause in sub-section gives overriding effect to sub-section (1) of Section 4 over any other law for the time being in force. Also, it is noteworthy that Section 361, Cr. P.C. itself, being a subsequent legislation, engrafts a provision that in any case where the court could have dealt with an accused under the provisions of the Probation Act but has not done so, it shall record in its judgment the special reasons therefor

27. What logically follows from a conjoint reading of sub-section (1) of Section 4 of the Probation Act and Section 361, Cr. P.C. is that if Section 360, Cr. P.C. were not applicable in a particular case, there is no reason why Section 4 of the Probation Act would not be attracted.



28. *Summing up the legal position, it can be said that while an offender cannot seek an order for grant of probation as a matter of right but having noticed the object that the statutory provisions seek to achieve by grant of probation and the several decisions of this Court on the point of applicability of Section 4 of the Probation Act, we hold that, unless applicability is excluded, in a case where the circumstances stated in subsection (1) of Section 4 of the Probation Act are attracted, the court has no discretion to omit from its consideration release of the offender on probation; on the contrary, a mandatory duty is cast upon the court to consider whether the case before it warrants releasing the offender upon fulfilment of the stated circumstances. The question of grant of probation could be decided either way. In the event, the court in its discretion decides to extend the benefit of probation, it may upon considering the report of the probation officer impose such conditions as deemed just and proper. However, if the answer be in the negative, it would only be just and proper for the court to record the reasons therefor.”*

15. In the present case, there is nothing on record to reflect that the petitioner possesses a criminal bent of mind or that his conduct poses any threat to society. Hence, by the broader principles of criminal jurisprudence, no adverse presumption can be drawn against him.

16. It is well established that sentencing must be guided by the dual



objectives of deterrence and reformation. Where the conduct of an accused reveals tendencies of a hardened criminal, exhibiting a dangerous or anti-social disposition capable of shocking public conscience, a deterrent sentence becomes necessary. However, in the absence of such factors, the Court is expected to adopt a judicious and humane approach, oriented towards rehabilitation rather than retribution.

17. Having heard learned counsel for the parties and upon due consideration of the submissions advanced with regard to the petitioner's claim for grant of probation, I am of the view that the petitioner deserves to be considered for the benefit of probation in respect of the offence in question. The following factors merit consideration in support of above:

- (i) The petitioner has no criminal antecedents and is not involved in any other criminal case.
- (ii) There is no material on record to suggest that subsequent to the occurrence in the present case, which dates back to the year 2012, the petitioner has not indulged in any further unlawful activity.
- (iii) There exists no reason for this Court to presume that the petitioner is incapable of being reintegrated into the mainstream of society or that he possesses any criminal propensity of mind.
- (iv) The petitioner is nearing his fifties and as a good samaritan, he brought the injured to the hospital for further treatment.
- (v) The incident in question is not a pre-meditated offence and happens to be a chance accident which has not resulted in any serious consequences or loss of life.
- (vi) The petitioner has his family to support and the children



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would be in critical career stages in their life.

(vii) The petitioner has suffered agony of criminal trial for over a period of 13 years and the sentence awarded is 6 months.

18. In view of the aforesaid factors, there appears to be no reason to presume that the petitioner is incapable of reformation or reintegration into mainstream society, nor is there any indication of a continuing criminal propensity.

19. Taking into consideration the facts and circumstances of the case, I deem it appropriate to direct release of the petitioner on probation on furnishing an undertaking of keeping peace and good behaviour for two years to the satisfaction of the Judicial Magistrate. The petitioner shall also remain under the supervision of the concerned probation officer during the aforesaid period. In the event of the petitioner failing to comply with the said direction or committing breach of the undertaking given by him, he shall be called upon to undergo the remaining period of sentence imposed upon him in the present case.

20. The instant petition is partly allowed.

(VINOD S. BHARDWAJ)
JUDGE

10.11.2025
Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No