



CRR-2464-2025(O&M)

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

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CRR-2464-2025(O&M)

Date of Decision: 29.10.2025

Parveen @ Parveen Kumar

.. Petitioner

Versus

State of Haryana

... Respondens

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

Present: Mr. Keshav Pratap Singh, Advocate
Mr. Tarun Hooda, Advocate
Mr. Ekteshwar Sidhu, Advocate and
Mr. Rajat Singh, Advocate
for the petitioner.

Dr. Malvika Singh, DAG, Haryana.

VINOD S. BHARDWAJ, J. (ORAL)**CRM-39752-2025**

Disposed of as not pressed.

Main case

The present revision petition has been filed against the judgment of conviction dated 13.10.2018 and order of sentence dated 20.10.2018 passed by the Judicial Magistrate, First Class, Bhiwani, in criminal case bearing No.RBT-10 of 2013/2018 arising out of FIR No.775 dated 15.10.2013 registered under Section 147, 149, 323, 325 and 506 of the Indian Penal Code, 1860 at Police Station City Bhiwani as well as the judgment of dismissal of the appeal by the Additional Sessions Judge, Bhiwani vide judgment dated 17.09.2025.

2. Briefly stated, the facts of the case are that on 10.10.2013, a telephonic message was received at Police Post Jain Chowk, Bhiwani, from

the Government Hospital, Bhiwani, regarding the admission of one Bajrang, son of Ganeshi Lal, who had sustained injuries in a dispute. Acting upon the said information, the police party reached the hospital, collected the medical rukka and medico-legal report (MLR) of the injured, and sought the opinion of the attending doctor, who declared the patient unfit to make a statement. On the following day, i.e. 11.10.2013, the police again visited the hospital and, upon obtaining the doctor's opinion declaring the patient fit for statement, recorded the statement of the complainant/injured Bajrang. He stated that he is a resident of Hanuman Gate, Bhiwani, and works as a scrap dealer. On 10.10.2013, an auction of scrap was conducted at the Shiksha Board, Bhiwani, which was allotted to one Pawan Gupta, resident of Hansi Gate, Bhiwani. Subsequently, it was informed that anyone who may be interested in obtaining the above tender should assemble at the house of one Ravi Shorewala at Dadri Gate at about 4:00 PM for further bidding. Believing this information, the complainant, along with his son Manoj and one Manish (son of Narender Singh), went to the said place. Shortly thereafter, accused Pardeep (son of Vijay) also arrived in his Swift car bearing registration No. 3115, followed by accused Gulshan, Banti, and two other persons. Soon thereafter, accused Manoj and Surender @ Moda also reached the spot in a Scorpio car bearing registration No. HR-64-4000 along with two or three other young men. When the complainant expressed his intention to participate in the tender, accused Parveen (the petitioner herein) allegedly demanded ₹15,000/- from him. On his refusal to make such payment, Parveen-petitioner struck the complainant with a brick on his left arm. As the complainant raised alarm, his sons Manoj and Manish

intervened to rescue him. The accused Manoj retrieved three pistols from his car and distributed them among accused petitioner-Parveen and Moda. The accused persons then allegedly pointed the pistols at the complainant and slapped him. Upon further hue and cry, the accused fled the scene in their respective vehicles, issuing threats to kill the complainant in the future. It was further alleged that during the incident, the complainant lost his gold chain weighing approximately four tolas, suspected to have been taken by the accused. On the basis of the aforesaid statement, an FIR was registered. Investigation commenced, during which the accused were arrested, the site plan prepared, and statements of witnesses under Section 161 Cr.P.C. recorded. Upon completion of investigation and completion of necessary formalities, challan under Section 173 Cr.P.C. was presented before the Court by the Station House Officer, Police Station City Bhiwani.

3. In order to prove its case, prosecution examined Bajrang (complainant/injured) as PW1, Manish as PW2, SI Brij Bala as PW3, Manoj Kumar as PW4. Dr. Anil Sharma as PW5, ASI Karamvir Singh (I.O.) as PW6 and Dr. Ankit Jangra as PW7. Thereafter, evidence of prosecution was closed by court order on 16.07.2018.

4. The statements of the accused persons were recorded under Section 313 of the Code of Criminal Procedure, 1973, wherein they denied all the incriminating circumstances put to them arising from the evidence led by the prosecution and asserted their innocence.

5. Thereafter, the accused persons chose to lead evidence in their defence and examined DW-1 Madan Verma, and also tendered document Mark D1 in support of their case.

6. Upon a comprehensive appraisal of the evidence on record and after hearing the arguments advanced by the respective parties, the learned Judicial Magistrate First Class, Bhiwani, vide judgment dated 13.10.2018, convicted the petitioner for the offences punishable under Sections 323, 325, and 506 of the Indian Penal Code. The petitioner was sentenced as under:

Name of convict	Under Section	Sentence
Parveen	323 of IPC	Imprisonment for six months
	325 of IPC	Imprisonment for three years and fine Rs.5,000/-
	506 of IPC	Imprisonment for one year and fine Rs.2,000/-

Aggrieved by the aforesaid judgment of conviction dated 13.10.2018 and the consequential order of sentence dated 20.10.2018, the petitioner preferred an appeal before the learned Sessions Judge, Bhiwani. However, the said appeal was dismissed by the learned Additional Sessions Judge, Bhiwani, vide judgment dated 14.10.2025. Hence, the present revision petition has been instituted.

7. Learned counsel for the petitioner contends that since both the Courts have concurrently recorded findings of fact against the petitioner, he does not intend to assail the conviction on merits. He confines his prayer to the grant of the benefit of probation, for which the requisite conditions, it is submitted, stand duly satisfied. It is argued that both the Courts failed to consider the petitioner’s entitlement to the benefit of probation at the stage of sentencing. The learned counsel submits that the incident in question was not premeditated. As per the prosecution’s own case, the petitioner is alleged to have thrown a brick which struck the complainant-victim near the

lower ribs, adjacent to the abdomen (“Pasu”), [though it has been incorrectly recorded in the judgment as “Baju” (arm)]. The act, being spontaneous and not pre-planned, cannot be attributed to any deliberate or calculated intention to cause harm. It is further submitted that the petitioner, presently around 50 years of age, has no criminal antecedents. He had undergone cardiac stenting in the year 2022, at the age of about 46 years, and continues to suffer from a precarious cardiac condition due to arterial blockage. The petitioner is a retired Army personnel, who has dutifully discharged his responsibilities towards his aged parents and is the sole breadwinner of his family. In such circumstances, it is argued that there exists no reason for the Court to presume that the petitioner cannot be reintegrated into the mainstream of society or that his conduct poses any danger to public order or societal peace.

8. Learned counsel for the respondent-State, on the other hand, contends that the eye-witness account stands duly corroborated and the participation of the petitioner in the occurrence has been clearly established. Both the Courts, upon appreciation of evidence, have recorded concurrent findings of guilt against the petitioner, hence, the conviction even otherwise warrants no interference. It is submitted that the petitioner, having been found guilty of causing the injuries in question, does not deserve the benefit of probation, as the offence stands proved beyond reasonable doubt. However, the learned State counsel does not dispute the mitigating circumstances as pointed out by the petitioner, including his age, medical condition, and clean antecedents, which have been relied upon in support of the plea for grant of probation.

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

10. 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.

11. 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 aims 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.”

12. 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 sub-section (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.

13. 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.

14. 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.

15. Having heard learned counsel for the parties and upon due consideration of the rival contentions advanced with respect to the petitioner's claim for grant of probation, I am of the view that the petitioner's case merits a favourable consideration. The following factors are relevant for determination:

- (i) The petitioner is an ex-Army personnel aged about 50 years.
- (ii) He had suffered a cardiac episode in the year 2022, at the age of approximately 46 years, and continues to suffer from health complications, including cardiac blockage.
- (iii) The petitioner has no prior criminal antecedents and is not involved in any other criminal case.
- (iv) The incident in question does not appear to be premeditated, nor does it reflect any deliberate or aggravated assault upon the complainant.

(v) The offence under Section 325 IPC carries a maximum punishment of seven years' imprisonment; therefore, the case falls within the parameters for consideration under the Probation of Offenders Act.

(vi) There is also no material on record to suggest that subsequent to the incident of 2013, the petitioner has been involved in any other unlawful activity.

(vii) The petitioner has already undergone the ordeal of criminal proceedings for nearly twelve years and has suffered an actual custodial incarceration for a period of about one month and ten days.

16. 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.

17. Taking into consideration the facts and circumstances of the case, I deem it appropriate to direct release of the petitioner on probation on his 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.

18. The instant petition is partly allowed.

19. Pending Miscellaenous application(s), if any, also stand disposed of.

29.10.2025
monika

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*