

2025.PHHC-000634



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

CRR-2360-2024

Date of Decision: 07.01.2025

Yogesh Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Prateek Rathee, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The instant revision petition has been preferred against the judgment of conviction dated 16.12.2021 passed by the Ld. JMIC, Bhiwani and the order of sentence dated 21.12.2021 passed by the learned JMIC, Bhiwani in a complaint filed under Section 138 of the N.I. Act vide which the petitioner was convicted under Section 138 of the N.I. Act and sentenced to undergo simple imprisonment for a period of one year and to pay a compensation of Rs.2,70,000/- to the complainant along with 9% interest per annum from the date of the cheque till the date of judgment along with default mechanism.

2. Brief facts of the case are that the petitioner and the complainant-respondent were having friendly relations and the petitioner borrowed a sum of Rs.2,70,000/- from the complainant and after passing of time, the petitioner had issued a cheque a bearing No.000018 dated 10.10.2017 amounting to Rs.2,70,000/- in favour of the complainant but the same was dishonoured.

Then after complying with all the statutory norms the respondent lodged the complaint under Section 138 of N.I. Act before the trial Court. Upon consideration of trial, the petitioner was convicted and sentenced to undergo simple imprisonment for a period of one year and to pay a compensation of Rs.2,70,000/- to the complainant along with 9% interest per annum from the date of the cheque till the date of judgment. Being aggrieved, the petitioner had preferred an appeal before the Ld. ASJ, Bhiwani but the appeal was dismissed on the sole score that there is no infirmity and illegality in the judgment and quantum of sentence. Thus, the petitioner approached this Court by filing the instant revision petition.

3. Learned counsel for the petitioner submits that on the last date of hearing i.e. 26.11.2024, a coordinate Bench of this Court had issued notice of motion and suspended execution of the sentence of imprisonment of the petitioner till the next date of hearing as the petitioner. In order to prove his bona fide, prepared a demand draft in favour of the complainant and gave an undertaking to deposit the entire amount within a period of one week.

4. Learned counsel for the petitioner has placed on record a copy of order dated 05.12.2024 passed by the Ld. JMIC, Bhiwani and submits that the petitioner has deposited the entire amount of Rs.3,47,300/- by way of demand draft before the learned JMIC, Bhiwani in compliance of the order dated 26.11.2024 passed by a coordinate Bench of this Court.

Learned counsel for the petitioner further submits that in view of the above mentioned fact he confines his prayer to the extent of quantum of sentence. The petitioner is already on interim bail. Further learned trial Court ought to have considered the case of the petitioner for releasing him on probation under Section 361 Cr.P.C read with Sections 3 & 4 of the Probation of Offenders Act, 1958.

5. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. It is submitted that on the last date of hearing, the State of Haryana was deleted from the array of the parties being the unnecessary party.

6. I have heard learned counsel for the petitioner and perused the record of the case with his able assistance.

7. Sections 3 & 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 & 361 of the Cr.P.C, 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 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.....”

8. 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.”

9. In view of the aforesaid facts and circumstances, judgment passed by the learned JMIC, Bhiwani convicting the petitioner, is upheld, however, having regard to the fact that the petitioner has already deposited the entire amount with the concerned trial Court, this Court is inclined to give him the benefit of probation of good conduct. Consequently, while maintaining the conviction and sentence imposed on the petitioner, it is directed that he shall be released on probation for good conduct on furnishing a personal bond of Rs.10,000/- with 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 learned trial Court concerned. The petitioner shall remain under the supervision of the concerned Probation Officer during the aforesaid period. It is further directed that if the petitioner fail to comply with the said directions or commit breach of the undertaking given by him, he will be called upon to undergo the sentence imposed upon him by the learned JMIC, Bhiwani.

10. Accordingly, the learned JMIC, Bhiwani is directed to release the amount of Rs.3,47,300/- in favour of respondent-complainant against the proper receipt.

11. With the aforesaid directions, instant revision petition stands allowed.

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

07.01.2025

Parveen kumar

(HARPREET SINGH BRAR)
JUDGE

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