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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.A. 146/2020**

STATE

.....Appellant

Through: Mr. Pardeep Gahlot, APP with SI
Dinesh Kumar, PS Nand Nagri

versus

DARBAN SINGH

.....Respondent

Through: Mr. Shyam Suman Singh, Mr. Abhay
Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

30.01.2025

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1. This is an appeal filed by the State seeking to challenge the judgment of the Trial Court dated 01.08.2017 passed by the learned MM-02, Karkardooma Shahdara Courts, Delhi in CA No. 113/2017 arising out of FIR No. 344/2003 registered at PS Nand Nagri under Sections 279/304A IPC.

2. As per the prosecution, the facts of the case are that on 22.06.2003 at about 7:20 AM, the respondent Darban Singh was found driving a truck bearing No. UP-06-5320 in a rash and negligent manner.

3. The said truck hit the scooter bearing No. DL-7SN-6214 causing the death of the pillion rider, namely Azizuddin.

4. Thereafter, the charge sheet was filed, charges were framed and prosecution examined 11 witnesses. Statement of the respondent under Section 313 of CrPC was recorded and the accused did not lead any evidence.

5. The learned MM found the respondent guilty of offences under



Sections 279/304A of IPC and sentence to simple imprisonment for 6 months.

6. The appellant challenged the said order and the Sessions Court *vide* impugned order dated 13.08.2019 was pleased to accept the appeal in part and while maintaining the conviction of the appellant in terms of the judgment of the Trial Court dated 01.08.2017, the order of sentencing dated 03.11.2017 was modified to the extent that the appellant was directed to be released on probation of good conduct for a period of 1 year.

7. Aggrieved by the impugned judgment, the State prefers the present appeal.

8. Mr. Singh, learned APP appearing on behalf of the appellant states that in view of the rising road accidents, the release of the respondent on probation is uncalled for.

9. He states that the respondent was rash and negligent in driving the truck which caused the death of an innocent pillion driver.

10. Hence, the present appeal must be allowed and the order of the learned Sessions Court must be set aside.

11. The learned counsels appearing on behalf of the respondent supports the impugned order of the Sessions Court.

12. I have heard learned counsel for the parties.

13. In the present case, the learned Sessions Court has observed as under:

“As aforesaid, already 16 years have passed since the incident took place. The kith and kin of the deceased are not traceable. The appellant withstood trial for about 14 years without any blemish or absenting himself. No previous conviction against the appellant has been shown on record. He is now leading a retired life at his native



village Kheti, District Chamoli, PO Karan Prayag, Uttaranchal. He has two sons and two daughters who are all grown up and are married. Hence, no purpose would be served in sentencing him to substantive punishment of imprisonment of six months. In the opinion of this court, this is a fit case to release the appellant on probation in terms of the findings of the Apex Court in Sanjiv Bhalla's case (supra)."

14. In the present case, admittedly, the respondent has suffered the trial for 14 years without any blemish and was appearing on each and every date of hearing.

15. The appellant has no other criminal antecedents and is leading a retired life in his native village in Chamoli, Uttarakhand.

16. In addition, the appellant is now 72 years old and is not even keeping good health.

17. The judgment of the Hon'ble Supreme Court in the case of ***State v. Sanjeev Bhalla, (2015) 13 SCC 444*** has correctly observed that there is no absolute principle of law debarring a conviction under Section 304A of the IPC to be released on probation.

18. Thus, in my considered opinion, the view of the learned Sessions Judge is correct based on correct appreciation of law and requires no interference.

19. For the said reasons, the appeal is dismissed.

JASMEET SINGH, J

JANUARY 30, 2025/DM