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CRA-S-187-SB-2005 (O&M)

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2026:PHHC:030613



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-187-SB-2005 (O&M)

Date of decision: 25.02.2026

NEK CHAND AND ANR

....Appellants

Versus

STATE OF PUNJAB

....Respondent

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. Aman Bansal, Advocate for the appellants.

Mr. Ravinder Singh, DAG Punjab.

.....

RUPINDERJIT CHAHAL, J. (ORAL)

1. The instant appeal has been filed challenging the judgment of conviction and order on quantum of sentence, both dated 10.01.2005, passed by the Court of learned Special Judge, Barnala (hereinafter referred to as 'learned trial Court') in Session Case No. 9 of 03.11.2004, titled as *The State v. Ragbir Singh and others* arising out of FIR No. 50 dated 04.05.1990 registered under Section 7 of the Essential Commodities Act, 1985 at Police Station Tapa, whereby the appellants were held guilty for commission of aforementioned offence and were sentenced to undergo maximum rigorous imprisonment for 03 years each and to pay fine of ₹ 5,000/- each with default clause.

2. At this juncture, learned counsel for the appellants submits that he is not challenging the judgment on merits but restricts his prayer to



3. Since the appellants are not challenging the impugned judgments passed by the Court below on its merit and seeking benefit of probation, the sole consideration before this Court is as to whether the prayer made by the appellants for extending benefit of probation can be accepted or not?

4. Before proceeding to consider the prayer made by the appellants for release of the accused on probation, it is apposite to refer to the legal position on the subject. The aims and objectives of the Probation of Offenders Act were authoritatively laid down by the Hon'ble Supreme Court in *Jugal Kishore Prasad v. State of Bihar, AIR 1972 SC 2522*. Hon'ble Supreme Court while considering the scope of the Probation Act had held as under:-

"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 consequence 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 recognizes 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."

5. Reliance can also be placed upon *Isher Das v. State of Punjab, AIR 1972 Supreme Court 1295* and *Arvind Mohan Sinha v. Amulya Kumar Biswas and others, 1974 AIR (SC) 1818*, wherein Hon'ble Supreme Court had taken the similar view. Relevant paragraph of *Arvind Mohan Sinha's* case (supra) reads as under:-

"The Probation of Offenders Act is a reformatory measure and its object is to reclaim amateur offenders who, if spared the indignity of incarceration, can be usefully rehabilitated in society. A jail term should normally be enough to wipe out the stain of guilt but the sentence which the society passes on convicts is relentless. The ignominy commonly associated with a jail term and the social stigma which attached to convicts often render the remedy worse than the disease and the year purposes of punishment stands in the danger of being frustrated. In recalcitrant cases punishment has to be deterrent so that others similarly minded may warn themselves of the hazards of taking to a career of crime. But the novice who strays into the path of crime ought, in the interest of society, be treated as being socially stick. Crimes are not always rooted in criminal tendencies and their origin may lie in psychological factors induced by hunger, want and poverty. The Probation of Offenders Act recognises the importance of environmental influence in the commission of crimes and prescribes a remedy whereby the offender can be reformed and rehabilitated in society. An attitude of social defiance and recklessness which comes to a convict who, after a jail term, is apt to think that he has no more to lose or fear may breed a litter of crime. The object of the Probation of Offenders Act is



to nip that attitude in the bud. Winifred A Sikin describes probation as a system which provides a means of re-education without the necessity of breaking up the offender's normal life and removing him from the natural surroundings of his home. (English Juvenile Courts (1938) page 162) Edwin R. Sutherland raises it to a status of a convicted offender. (Principles of Criminology, 4th Edn. (1947) page 383)."

6. The primary objective of probation laws is to provide an opportunity for reformation to offenders who are not habitual or hardened criminals, but who have committed offences under momentary weakness or due to compelling circumstances. Such provisions aim to prevent the stigma and adverse influence of incarceration, while also addressing the issue of prison overcrowding. Section 360 Cr.P.C. empowers the Court to release an accused on probation of good conduct or after admonition. Section 361 Cr.P.C. mandates that if the Court chooses not to extend such benefit, despite its applicability, it must record special reasons in the judgment.

7. A conjoint reading of the Probation of Offenders Act reveals that Section 4, by virtue of its non-obstante clause, has overriding effect. Where the conditions stipulated therein are satisfied, the Court is vested with ample discretion to release a first-time offender of a minor offence on probation, considering the nature of the offence, age, antecedents, and surrounding circumstances, in lieu of sentencing him to imprisonment.

8. Now adverting to the facts of the present appeal, the appellants have been held guilty by the trial Court for commission of offences punishable under under Section 7 of the Essential Commodities



before this Court. The appellants have faced the agony of trial for the last 35 years. Much water has flown since then. The appellants have no criminal antecedents. Further, the appellants have never misused the concession of bail granted to them and prays for release on probation.

9. Therefore, in totality of facts after taking into consideration the agony and trauma faced by the appellants during protracted trial, appeal, their antecedents, nature of offence and other emanating circumstances, this Court is of the considered opinion that no useful purpose would be served by keeping the appellants behind bars.

10. Accordingly, it is directed that the appellants shall be released on probation, subject to their furnishing necessary surety bonds/bail bonds to the satisfaction of the concerned Trial Court/Duty Magistrate/CJM within a period of one month from the date of this order. The release shall be subject to the condition that the appellants shall maintain peace and be of good behaviour for a period of two years from the date of this order. The appellants shall also disclose their current residential address and contact number before the learned Trial Court by way of an affidavit at the time of furnishing the bonds. It is further made clear that in the event the appellants are found to be involved in any unlawful activity during the probation period, the sentence imposed by the learned Trial Court shall automatically stand revived.

11. As such, the instant revision petition is hereby dismissed on merits and the impugned judgment is upheld. However, the order of sentence is accordingly modified to the extent and in the manner depicted



12. Pending miscellaneous application(s), if any, stand(s) disposed of, accordingly.

25.02.2026
Mohit Bishnoi

(RUPINDERJIT CHAHAL)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |