



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

118

CRR-937-2025 (O&M)

Date of decision: 7th April, 2025

Sanjay

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Geeta Rani, Advocate for the petitioner.

Mr. Apoorv Garg, Sr. DAG, Haryana.

MANISHA BATRA, J (ORAL):-

1. The instant revision petition had originally been filed by the petitioner challenging the judgment of conviction dated 04.10.2017 and order on quantum of sentence dated 06.10.2017, passed by the Court of learned Judicial Magistrate First Class, Bhiwani (*hereinafter referred to as 'the trial Court'*) in Criminal Case No. 236-2 of 2014/2016, titled as *State vs. Sanjay Singh and others*, arising out of FIR No. 02 dated 28.01.2014, registered under Section 3 of the Railway Property (Unlawful Possession) Act, at Police Station RPF, Bhiwani, whereby the petitioner was held guilty and convicted for commission of aforementioned offence and was sentenced to undergo maximum rigorous imprisonment for a period of one year with default clause. He also challenged the judgment dated 03.03.2025, passed by the Court of learned Additional Sessions Judge, Bhiwani (*hereinafter referred to as 'appellate Court'*) in Criminal Appeal No. 07 of 2017/2022,



titled as *Sanjay and others vs. State of Punjab*, whereby the appeal filed by the petitioner had been dismissed.

2. The aforementioned FIR was registered on the allegations that on 28.01.2014, on the basis of a secret information, the petitioner Sanjay and accused Krishan were apprehended with two railway sign boards with frames and one iron angle which was railway property. They were interrogated. Petitioner disclosed that in connivance with the co-accused Ram Kishan, he had stolen those boards and iron angle. Accused Ram Kishan was also arrested. After completion of investigation, challan was presented against the petitioner and co-accused. They were charge-sheeted under Section 3 of the Act, 1966 and pleaded not guilty of the same and claimed trial.

3. To substantiate its case, prosecution examined as many as six witnesses besides placing reliance upon documentary evidence and thereafter, prosecution evidence was closed. Statement of petitioner and co-accused were recorded under Section 313 of Cr.P.C.. They pleaded false implication and abjured their guilt. No defence evidence was added.

4. After hearing rival contentions of both sides, the learned trial Magistrate held the petitioners and co-accused guilty and sentenced them in the manner as indicated above.

5. The judgment of learned trial Magistrate was upheld by the First Appellate Court.

6. Learned counsel for the petitioner has submitted that he does not intend to challenge the conviction of the petitioner as recorded by the Courts below. It is, however, submitted by him that since the petitioner is



facing the agony of criminal prosecution for the last more than ten years, he is not involved or convicted in any other criminal case and as out of period of sentence of one year imposed upon him, he has already undergone a period of more than one month, therefore, they may be extended benefit of probation.

7. *Per contra*, learned State counsel has submitted that the petitioner does not deserve to be extended benefit of probation as he was found in unlawful possession of railway property.

8. On considering the rival contentions of both sides and on going through the impugned orders passed by the Courts below on question of sentence, this Court is of the view that the petitioner can be granted benefit of probation irrespective of the fact that the law prescribes minimum sentence of imprisonment of one year for the offence punishable under Section 3 of Act, 1966. In this regard, reliance is placed upon the observations made by a Co-ordinate Bench of this Court in criminal revision No. 483 of 2008 titled as '*Mange Ram Vs. State of Haryana*' decided on 28.08.2016 as well as by High Court of Madhya Pradesh in *State by Public Prosecutor Vs. Rathinavelu 1973 Criminal Law Journal 354*, wherein it was observed that despite the fact that minimum sentence of imprisonment with fine has been prescribed by the legislature for a person found guilty under Section 3 of the Act, 1966, the Court can still resort to the provisions of probation of offenders Act. Keeping in view the fact that the petitioner is facing the agony of criminal prosecution for the last more than 10 years, in the opinion of this Court, the ends of justice would be considerably met if his sentence for imprisonment is set aside and he is ordered to be released on



probation. In view of the discussion as made above, the conviction of the petitioner under Section 3 of the Act, 1966 is upheld, however, his sentence is set aside and he is ordered to be released on probation subject to his furnishing bonds in the sum of Rs. 50,000/- with one surety in the like amount to the satisfaction of the concerned trial Magistrate/Chief Judicial Magistrate, to keep peace and be of good behaviour for a period of one year and receive sentence as and when called upon to do so. The fine amount, if already deposited would be treated as costs of proceedings.

9. The revision petition is disposed of accordingly, as partly allowed.

10. Since the main petition has been disposed of, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

7th April, 2025

Parveen Sharma

1. *Whether speaking/ reasoned* : *Yes / No*
2. *Whether reportable* : *Yes / No*