



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

205

CRR-178-2014 (O&M)

Date of decision: 08.05.2025

Bijender @ Bindra

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Gurpreet Kaur, Advocate (*Amicus Curiae*)
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. This revision petition has been preferred against the judgment dated 07.11.2013 passed by the learned Additional Sessions Judge, Sonapat, vide which judgment of conviction dated 02.09.2011 and order on quantum of sentence dated 03.09.2011 passed by learned Sub-Divisional Judicial Magistrate, Gohana, in FIR No.93 dated 05.08.2005 registered under Sections 279 and 304-A IPC at Police Station Baroda, Gohana, have been upheld.

1.1. The petitioner was convicted under Sections 279 and 304-A IPC and sentenced as under:

Offence	Sentence
Section 279 IPC	Simple imprisonment for a period of 06 months.
Section 304-A IPC	Simple imprisonment for a period of 01 year with fine of Rs.2,000/- and in default of payment of fine, to further undergo simple imprisonment for 05 days.

Both the sentences are ordered to run concurrently.



2. The brief facts of the case are that the complainant Ajmer Singh has made a statement before the police on 05.08.2005 that he is resident of village Butana Kundu and he is an agriculturist. On 05.08.2005 at about 02:30 pm, he alongwith his father Ramphal and his younger brother Vikas were going to their fields. When they reached near road and Vikas was crossing the road, then a Cruiser Jeep of golden colour came from Jind side in a rash and negligent manner and directly hit his brother Vikas due to which, Vikas fell down on the middle of road. The driver of the Jeep stopped his Jeep bearing registration No.MKE-FF-7492, but after some time, the driver of the Jeep ran away from the spot alongwith his Jeep. Rajinder son of Bani Singh, resident of village Butana Kundu chased the Jeep on his motorcycle. Vikas succumbed to the injuries on the spot. On the basis of the said statement, MLR etc., the FIR (supra) under Sections 279, 304-A IPC was registered.

3. Learned amicus curiae, inter alia, contends that PW-9, who is the eye-witness of the alleged incident and real brother of the deceased has not supported the case of the prosecution. He has refused to identify the petitioner in the Court and further deposed that the accident had taken place with some unknown vehicle. Further the complainant Ajmer Singh did not disclose the name of the driver before the police when his statement was recorded on 05.08.2005. As such, both the learned Courts below have not appreciated the said facts and fell into grave error by convicting the petitioner. Even the Investigating Officer was not examined in this case and without examining the



Investigating Officer, the investigation carried out by him is not proved at all. Further, the learned Courts below have convicted the petitioner only on the basis of the statements of PW-1, PW-7 and PW-10. Moreover, the prosecution has not conducted the test identification parade to establish the identity of the petitioner being the person responsible for the alleged offence. She further contends that the petitioner has no criminal antecedents and has family responsibilities. Furthermore, the petitioner has been facing trial for more than 19 years, and as such, the learned Courts below should have considered releasing him on probation under Section 361 Cr.P.C. read with Sections 3 and 4 of the Probation of Offenders Act, 1958. Lastly, she submits that the petitioner be released on probation in view of his good conduct.

4. *Per contra*, learned State counsel opposes the prayer made by the petitioner and submits that the petitioner has been convicted by the learned trial Court based on correct appreciation of the facts and the law. Moreover, the conviction has been upheld by the learned Lower Appellate Court, as such interference by this Court is not warranted. However, learned State counsel does not object to the restricted prayer made by learned counsel for the petitioner for releasing the petitioner on probation.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is having clean antecedents and he is not involved in any other case. After hearing the arguments and perusing the records, the Court notes that Sections 3 and 4 of the Probation of Offenders Act



empower the Courts to release the offenders/convicts on probation of good conduct if deemed appropriate in view of circumstances of the case. Similarly, Sections 360 and 361 of the Cr.P.C, also empower the Courts to release the offenders on probation for 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.....”

6. 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.”

7. Further still, a two Judge Bench of the Hon'ble Supreme



Court in ***Lakahnlal @ Lakahn Singh vs. State of Madhya Pradesh (2021) 6 SCC 100*** has opined as follows:

“15. We find that the attention of the Court was not drawn to sub Section (10) of Section 360 which provides that Section 360 will not affect the provisions of 1958 Act or other similar laws for the time being in force for the treatment, training or rehabilitation of youthful offenders. Still further, Section 4 of the 1958 Act has a non obstante clause, giving overriding effect over any other provisions of law.

16. The conjoint reading of the provisions of both the statutes, we find that the provisions of Section 360 of the Code are in addition to the provisions of the 1958 Act or the Children Act, 1960, or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders”

8. The Hon'ble Supreme Court in ***Bishnu Deo Shah vs. State of West Banal AIR 1979 SC 964*** has laid down that it is obligatory on the part of the Court to deal with a convict under the provisions of Section 360 of the Cr.P.C., if he is not convicted for an offence punishable with death penalty or imprisonment for life and additionally, if he is not a previous convict. The overarching object of the provision contained in Sections 4 and 6 of the Act and Sections 360 and 361 of Cr.P.C. is to provide an opportunity to the first time offenders to reform and not expose them in association with the hardened and habitual criminal inmates incarcerated in the judicial custody.

9. After considering the facts and circumstances, having regard to the fact that there are no criminal antecedents against the



petitioner and he has actually undergone sentence of 06 months and 17 days out of total sentence of 01 year, this Court is inclined to give him the benefit of probation for good conduct.

10. Consequently, the instant revision petition stands disposed of with the following directions:-

- *The judgment dated 07.11.2013 passed by the learned Additional Sessions Judge, Sonapat, confirming the conviction of the petitioner is upheld.*
- *The order of sentence dated 03.09.2011 passed by the learned Sub-Divisional Judicial Magistrate, Gohana is modified to the extent of granting the concession of probation to the petitioner for good conduct.*
- *The petitioner shall be released on probation for good conduct, subject to furnishing a personal bond of Rs.10,000/-, with a surety of the like amount.*
- *The petitioner shall submit an undertaking to maintain peace and good behavior for a period of one year, to the satisfaction of the learned trial court, within four weeks.*
- *The petitioner shall remain under the supervision of the concerned Probation Officer during this probationary period.*
- *In the event of non-compliance with the directions or any breach of the undertaking, the petitioner shall be liable to undergo the sentence originally imposed.*

11. The High Court Legal Services Authority is directed to pay remuneration to learned *Amicus Curiae* as per rules.

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

(HARPREET SINGH BRAR)
JUDGE

08.05.2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No