



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

117

**CRR-2520-2025 (O&M)
Reserved on: 06.11.2025
Pronounced on: 26.11.2025**

Jatinder Kumar @ Jindri

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Piyush Khanna and Mr. Karajveer Singh, Advocates,
for the petitioner.

Mr. Saurav Verma, Addl. AG, Punjab.

VINOD S. BHARDWAJ, J.

The instant revision petition has been preferred against the judgment dated 18.07.2025 passed by the Additional Sessions Judge, Hoshiarpur in CIS No.CRA-248-2017, whereby the judgment of conviction and order of sentence dated 10.07.2017 passed by the Chief Judicial Magistrate, Hoshiarpur in case bearing registration No.CHI/385/2014 arising out of FIR No.172 dated 28.12.2013 registered under Sections 279, 304-A, 427 of the Indian Penal Code, 1860 at Police Station City, Hoshiarpur had been partially allowed while maintaining the conviction, the punishment awarded by the Trial Court was modified by the Appellate Court and reads as under:-

<i>Sr. No.</i>	<i>Under Section</i>	<i>Punishment by Ld. Appellate Court</i>
1.	Section 279 IPC	RI for 6 months and fine of Rs.1,000/-and in default thereof to undergo further RI for a month.

2.	<i>Section 304-A IPC</i>	<i>RI for 1 year and fine of Rs.4,000/- and in default thereof to undergo further RI for a month.</i>
	<i>Both sentences were order to run concurrently.</i>	

2. Succinctly stated, the facts of the present case are that the complainant, Tarsem Lal, who is engaged in the business of selling fodder, was travelling on 28.12.2013, at about 5:30 p.m., on his scooter bearing Registration No. PB-07-J-9429, accompanied by one Brij Mohan Sharma. His son, Pawan Kumar, aged about 35 years, was travelling ahead of them on a separate Activa bearing Registration No. PB-07-AD-6256. When they reached in front of Sood Forex Western Union, Pahari Katra, a truck bearing Registration No. PB-08-BQ-3511 approached from the opposite direction at a high speed and the same was being driven in a rash and negligent manner. The said truck struck the Activa of Pawan Kumar. Due to the impact, Pawan Kumar fell on the road and the rear tyre of the truck ran over him, crushing his head and other body parts, resulting in his instantaneous death. While the complainant and Brij Mohan Sharma were attending to the injured Pawan Kumar, the driver of the truck alighted from the vehicle and fled from the spot, abandoning the truck. The complainant thereafter prayed for appropriate legal action against the driver of the offending vehicle.

3. On receipt of the aforesaid information, a formal FIR was registered. The Investigating Officer prepared a site plan and also clicked photographs of the place of incident. Inquest of the dead body was prepared and post-mortem was conducted. The petitioner was eventually arrested. An

identification memo was also prepared. The relevant documents, including the registration certificate, driving licence, insurance policy in original, and a photocopy of the permit pertaining to the offending vehicle, were taken into police possession through separate recovery memos. Statements of the witnesses were recorded under Section 161 of the Code of Criminal Procedure. Upon completion of the investigation, a final report was presented against the petitioner.

4. Finding a prima facie case, charge under Sections 279, 304-A IPC was framed against the accused person, to which accused pleaded not guilty and claimed trial.

5. To establish its case, the prosecution examined PW-1, Inspector (Retd.) Harpal Singh, the Investigating Officer of the present matter. He deposed that on 28.12.2013, while posted at Police Station City, Hoshiarpur, he received information regarding an accident involving a truck and an Activa scooter in the area of Pahari Katra, Hoshiarpur. He immediately proceeded to the spot where the complainant, Tarsem Lal, recorded his statement (Ex. PA). The witness made his endorsement (Ex. PB) on the said statement and sent the ruqa through PHG Bhagat Ram, on the basis of which the formal FIR (Ex. PC) was registered by ASI Jagat Singh, whose signatures he duly identified. He further stated that he recorded the statement of Brij Mohan, marked as Ex. PC/1. He prepared the rough site plan (Ex. PD) and took into police custody both the Activa scooter and the truck involved in the accident vide recovery memos Ex. PE and Ex. PF. H.C. Raj Kumar, photographer, was called to the spot, and he clicked photographs of the accident vehicles. Inspector Harpal Singh also prepared the inquest

report (Ex. PG) of the deceased, whose body was identified by Ravinder Singh and Ramesh Thakur. Their statements were recorded as Ex. PH and Ex. PH/1, respectively. He moved an application (Ex. PJ) for conducting the post-mortem examination, after which the dead body of Pawan Kumar was handed over to his relatives vide receipt Ex. PK. On 29.12.2013, H.C. Raj Kumar produced six photographs of the accident vehicles, which were taken into possession vide memo Ex. PK/1. On 30.12.2013, the witness arrested the accused Jatinder Kumar and prepared the arrest memo Ex. PL. The complainant, Tarsem Lal, identified the accused, and an identification memo Ex. PM was prepared accordingly. The accused produced the Registration Certificate of the offending truck, his driving licence, the permit, and the insurance documents, all of which were taken into police possession vide memo Ex. PN. On 04.01.2014 and 14.01.2014, ASI Avtar Singh conducted a mechanical inspection of the recovered vehicles and submitted his reports. The Investigating Officer further stated that he verified the Registration Certificates of the recovered vehicles as well as the driving licence of the accused, and recorded the statements of relevant witnesses. After completion of the investigation, the challan was prepared by Inspector Prem Kumar, whose signatures he identified. The witness also identified the accused present in Court.

6. The prosecution next examined PW-2, HC Raj Kumar, photographer. He deposed that on 28.12.2013 he was summoned to Pahari Katra, Hoshiarpur, where he photographed the accident vehicles, namely the truck bearing Registration No. PB-08-BQ-3511 and the Activa scooter

bearing Registration No. PB-07-AD-6256. The photographs so taken are exhibited as Ex. P-1 to Ex. P-6.

7. PW-3, ASI Avtar Singh, deposed that on 04.01.2014 he conducted the mechanical inspection of the truck bearing Registration No. PB-08-BQ-3511 and prepared the mechanical test report, which is exhibited as Ex. PW3/A. He further proved the mechanical inspection report of the Activa scooter bearing Registration No. PB-07-AD-6256, exhibited as Ex. PW3/B.

8. PW-4, Dr. Jaswinder Singh, Medical Officer, tendered his duly sworn affidavit Ex. PW4/A, wherein he deposed that he conducted the post-mortem examination on the deceased, Pawan Kumar Sharma. He proved the copy of the post-mortem report, exhibited as Ex. PW4/B, along with its pictorial diagram, exhibited as Ex. PW4/C.

9. PW-5 (wrongly recorded as PW-4), Tarsem Lal, the complainant and an eyewitness, reiterated the version contained in his earlier statement Ex. PA, which need not be reproduced herein to avoid repetition. He further deposed that he received the dead body of his son on 29.12.2013 vide receipt Ex. PK. He stated that on 30.12.2013, he visited the police station to ascertain the progress of the investigation, during which the police produced certain individuals before him. Out of those persons, he identified the accused, Rajinder Kumar @ Jinderi, as the person who had fled from the spot after abandoning the truck. An identification memo, Ex. PM, was accordingly prepared. The witness also identified the accused present in Court, as well as the truck and the Activa scooter produced in the Court.

10. PW-6 (wrongly recorded as PW-5), Brij Mohan Sharma, an eyewitness, reiterated the facts already narrated by PW-5 Tarsem Lal. He further deposed that his statement was recorded by the police under Section 175 Cr.P.C., which is exhibited as Ex. PC/1, and he identified his signatures thereon. He stated that he had identified the dead body and had signed Form No. 2535 in that regard. The witness also identified the accused present in Court.

11. PW-7 (wrongly recorded as PW-6), Ravinder Kaur, Clerk from the DTO Office, Hoshiarpur, deposed that she had produced the screen report pertaining to Registration Certificate No. PB-07-AD-6254. She stated that the original Registration Certificate attached with the judicial file, exhibited as Ex. PW6/A, is correct as per the official record. She further proved the driving licence of Pawan Kumar, which is exhibited as Ex. PW6/B.

12. The learned Additional Public Prosecutor for the State also tendered in evidence the copy of the driving licence of the accused, Jatinder Kumar, exhibited as Ex. PAA, as well as the Registration Certificate of the truck bearing No. PB-08-BQ-3511, exhibited as Ex. PAB. With these documents, the prosecution evidence was formally closed.

13. All the incriminating circumstances appearing in the prosecution evidence were put to the accused in his statement under section 313 Cr.P.C to which accused pleaded that he is innocent and has not committed any offence and the present case is false. He further pleaded that he was not driving the truck in question at the time of accident.

14. Upon conclusion of the evidence, the parties were heard, and thereafter the learned Trial Court convicted the petitioner and sentenced him to undergo rigorous imprisonment for a period of two years for the commission of the offence under Section 304-A IPC, vide order dated 10.07.2017.

15. Aggrieved by the said judgment, the petitioner preferred an appeal before the Court of Sessions. The appeal was dismissed by the learned Additional Sessions Judge vide judgment dated 18.07.2025 insofar as the conviction was concerned; however, the sentence imposed upon the petitioner was modified and reduced to one year for the offence under Section 304-A IPC. Still dissatisfied, the petitioner has approached this Court by way of the present revision petition.

16. Learned counsel appearing on behalf of the petitioner submits that the prosecution case suffers from material discrepancies in the testimonies recorded, and that the essential element of negligence on the part of the petitioner has not been established. It is contended that the eyewitnesses have furnished no description of the petitioner in terms of physical features or distinctive marks of identification on the basis of which he could be recognized as the driver of the offending vehicle. It is argued that this lapse assumes significance as both the material prosecution witnesses i.e. PW-5 Tarsem Lal and PW-6 Brij Mohan Sharma specifically admitted that the petitioner was not previously known to them. Learned counsel further submits that although the prosecution has contended that the vehicle was driven rashly and negligently, PW-1, the Investigating Officer, stated in his examination-in-chief that the truck was travelling at a speed of

merely 20–30 km/hr at the time of the accident. It is argued that such speed, cannot be characterised as excessive or indicative of rash driving. Counsel additionally points out the absence of skid marks at the spot and asserts that this circumstance negates any inference of rashness or negligence on part of the petitioner.

17. Upon being confronted with the concurrent findings of both the Courts regarding the identification of the petitioner and the mode and manner of the occurrence, learned counsel fairly states that he would confine his submissions to the quantum of sentence alone and gives up challenge to the conviction.

18. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in *Sanjay Colaro v. State of Karnataka, Criminal Appeal No. 2133 of 2025*, reported as *2025 INSC 686*, to contend that the benefit of probation under the Probation of Offenders Act can be extended even in cases arising out of motor vehicle accidents. It is submitted that both Courts failed to consider the petitioner's prayer for release on probation, moreso when he does not suffer from any criminal antecedents and is not disqualified for the said benefit. The following mitigating circumstances are pointed out by the counsel for the petitioner :

- i. The incident occurred in the year 2013, and nearly twelve years have elapsed since its occurrence. The petitioner has endured the agony and rigours of criminal prosecution for twelve long years.
- ii. He is the sole breadwinner of his family and any further incarceration would disproportionately affect his dependents and cause undue hardship to them.

- iii. The surrounding circumstances do not indicate any gross negligence or rashness. The vehicle was being driven at a slow pace in a congested area.
- iv. The petitioner had momentarily halted the vehicle and fled the scene only out of fear of the crowd that had gathered, and such conduct ought not to be construed as an attempt at evasion from legal process.
- v. The petitioner voluntarily appeared before the authorities on 30.12.2013, i.e., the very next day after the occurrence, demonstrating bona fides and absence of intent to abscond.
- vi. The petitioner has no prior criminal antecedents. He has not been involved in any criminal case in the more than ten years since the incident.
- vii. The nature of the occurrence does not necessarily suggest rash or negligent driving on the part of the petitioner, who was operating a pick-up vehicle at the relevant time.

19. Learned State Counsel, on the other hand, reiterates the findings recorded by the Courts below and submits that the eyewitnesses have specifically identified the petitioner and have withstood the test of cross-examination with respect to the mode and manner in which the incident occurred. It is argued that such concurrent findings ought not to be interfered with at this stage. The State Counsel has, however, failed to furnish any justification as to why the benefit of probation for a period of one year ought not to be extended to the petitioner, particularly when it stands admitted that the petitioner is not involved in any other criminal case.

20. I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents appended along with the present petition.

21. Insofar as the objection raised by the respondent-State that the concurrent findings recorded by both the Courts ought not to be interfered with at this stage is concerned, the contention requires no further consideration, as the petitioner has expressly given up his challenge to the conviction and has confined his prayer solely to the quantum of sentence and has prayed for grant of benefit of probation.

22. Undisputedly, the offence under Section 304-A IPC prescribes a maximum sentence of two years. It is also an admitted position that the petitioner has already undergone actual custody of approximately four months in the present case, whereas the sentence, as modified by the learned Additional Sessions Judge, already stands reduced to one year. The attending circumstances lend credibility to the mitigating factors urged by the petitioner. The incident does not, on the face of it, reflect absolute or extreme rashness or negligence on the part of the petitioner, when viewed in the totality of circumstances. The petitioner has remained embroiled in criminal proceedings for nearly twelve years and is possessed of clean antecedents. There is no material to suggest that he has been involved in any other offence either prior to or subsequent to the present incident. There is also nothing on record to indicate that the petitioner was under the influence of any intoxicating substance at the time of the occurrence. The fact that the incident occurred in December 2013, after sunset, further indicates that certain external contributory factors may not be entirely ruled out. It is also

not disputed that the family of the deceased has received compensation and has thereby been suitably recompensed for the unfortunate loss suffered.

23. Furthermore, the provisions of the Probation of Offenders Act, 1958, as distinguished from Section 360 of the Code of Criminal Procedure, 1973, are intended to extend the benefit of probation to first-time offenders involved in offences punishable with imprisonment of less than seven years, so as to encourage reform on the basis of good conduct and absence of prior criminal involvement. Indeed, the absence of a previous conviction is a prerequisite under Section 360 Cr.P.C. The jurisprudential foundation for granting probation, whether on account of good conduct or even after admonition, rests upon the principle that every individual deserves a second opportunity, and that where an accused has demonstrated sustained lawful behaviour, reformatory considerations ought to guide the sentencing process. The reformatory approach, rather than a purely punitive or retributive one, assumes predominance in such circumstances.

24. The aims and object of the Probation Act came to be decided by the Hon'ble Apex Court in the case of *Jugal Kishore Prasad v. State of Bihar reported as (1972) 2 SCC 633.*, wherein the Supreme Court, while considering the scope of the Probation Act, has held that the benefit of probation is ordinarily extended to cases where the circumstances indicate a mere minor conflict with law instead of inherent criminal propensity or conduct reflecting a hardened or incorrigible disposition. The object of the Probation of Offenders Act is reformatory and rehabilitative and not punitive. It aims to reintegrate an offender into the mainstream of society where such reintegration appears feasible. The aforesaid position was

reiterated by Hon'ble Supreme Court in the case of ***Chellammal and Another v. State reported as 2025 SCC Online SC 870***. The relevant extract of the judgment is as under: -

”26. On consideration of the precedents and based on a comparative study of Section 360, Cr. P.C. and subsection (1) of Section 4 of the Probation Act, what is revealed is that the latter is wider and expansive in its coverage than the former. Inter alia, while Section 360 permits release of an offender, more twenty-one years old, on probation when he is sentenced to imprisonment for less than seven years or fine, Section 4 of the Probation Act enables a court to exercise its discretion in any case where the offender is found to have committed an offence such that he is punishable with any sentence other than death or life imprisonment. Additionally, the non-obstante clause in sub-section gives overriding effect to sub-section (1) of Section 4 over any other law for the time being in force. Also, it is noteworthy that Section 361, Cr. P.C. itself, being a subsequent legislation, engrafts a provision that in any case where the court could have dealt with an accused under the provisions of the Probation Act but has not done so, it shall record in its judgment the special reasons therefor.

27. What logically follows from a conjoint reading of sub-section (1) of Section 4 of the Probation Act and Section 361, Cr. P.C. is that if Section 360, Cr. P.C. were not applicable in a particular case, there is no reason why Section

4 of the Probation Act would not be attracted.

28. *Summing up the legal position, it can be said that while an offender cannot seek an order for grant of probation as a matter of right but having noticed the object that the statutory provisions seek to achieve by grant of probation and the several decisions of this Court on the point of applicability of Section 4 of the Probation Act, we hold that, unless applicability is excluded, in a case where the circumstances stated in subsection (1) of Section 4 of the Probation Act are attracted, the court has no discretion to omit from its consideration release of the offender on probation; on the contrary, a mandatory duty is cast upon the court to consider whether the case before it warrants releasing the offender upon fulfilment of the stated circumstances. The question of grant of probation could be decided either way. In the event, the court in its discretion decides to extend the benefit of probation, it may upon considering the report of the probation officer impose such conditions as deemed just and proper. However, if the answer be in the negative, it would only be just and proper for the court to record the reasons therefor.”*

25. In the present case, there is nothing on record to reflect that the petitioner possesses a criminal bent of mind or that his conduct poses any threat to society. Hence, by the broader principles of criminal jurisprudence, no adverse presumption can be drawn against him.

26. Moreover, this Court, in CRR-2697-2025 titled **Lakshay Jain v.**

State of Punjab & Another, vide order dated 14.11.2025, has held that sentencing must prioritise a reformatory approach, assessing an offender's background and circumstances rather than adopting a purely punitive stance. Mere involvement in an offence does not, by itself, establish criminality; instead, the totality of circumstances including the manner of the act, antecedents, conduct, and intent must guide sentencing. The law, therefore, distinguishes between errors of judgment and acts driven by deliberate mens rea, recognising that offenders are often capable of reform and should not be presumed beyond rehabilitation. The relevant extract of the aforesaid judgment are as follows:

32. *The imposition of punishment is a refined judicial function that demands a careful harmonization of its underlying purposes namely, retribution, deterrence, and reformation. This balance must reflect not only the reasoning of the Court but also the ethical standards and social context in which justice is administered. As societal values and circumstances evolve, the prominence accorded to each of these aims necessarily varies, requiring the Court to adapt its emphasis in response to the changing demands of justice. The aforesaid principle found early articulation in the writings of Justice Caldwell, who, in his authoritative work "Criminology," observed that:*

"If the infliction of pain is to have its greatest effect upon the behavior of a person, it must follow soon after the act for which it is given. But punishment always takes place weeks or even

months after the offense has been committed, since the offender must first be apprehended, tried, and convicted. Such delay tends to disconnect the punishment from the offense in the mind of the offender, and it may well be considered as merely another painful experience in an unjust world.”

33. *Moreover, Italian criminologist and jurist Cesare Beccaria, in his seminal treatise “On Crimes and Punishments,” propounded the doctrine of penal parsimony, emphasizing that the justification of any criminal justice system rests upon its capacity to inflict the least possible evil necessary to achieve its ends. The underlying premise is that punishment, being in itself a necessary evil and devoid of inherent virtue, must be confined strictly within the bounds of necessity. The imposition of suffering or restriction upon an offender cannot extend beyond what is indispensable for the preservation of social order.*

34. *While ‘retributive’ object of sentencing is seen regressive, in modern day sentencing jurisprudence for its focus on punishing proportionally for the harm done and caters to the negative senses of spite and anger against a wrongful act, the rehabilitative/reformative approach examines the circumstances surrounding the offender on social, economical, physical and psychological level so as to reintegrate the offender in the social mainstream. The law extends the benefit*

of good and perceives a probability and possibility of reform. It aims at capitalising a perceived social liability. The expectation of law is based on the surrounding circumstances to distinguish between a 'criminal' and an 'offender'.

35. *While the pre-requisites of crime do not distinguish two persons, on the legal scale, this aspect is significant for sentencing. A mere involvement of a person in crime may not necessarily mark a person as a 'criminal.' 'Criminality' in mind and action has to be determined from the totality of circumstances including the mode and manner in committing an offence, the conduct pre and post the offence, the criminal antecedents, nature of involvement, influence of peers etc. and not just from an isolatory consideration of commission of an offence. A Court of law would not assume every offender to be beyond reform and differentiate in punishment on considering whether the offences arise due to human error or that stem from actions propelled by mens rea.*

36. *The case in hand is yet another where interest of justice would warrant a reformatory approach in precedence to a punitive or retributive approach. It is not the function of the judges to seek the transformation of human nature itself, but rather to shape the framework within which individuals perceive that adherence to the law aligns with their own best interests.*

27. Taking into consideration the facts and circumstances of the present case and the mitigating circumstances enumerated above, I deem it appropriate to direct release of the petitioner on probation on his furnishing an undertaking of keeping peace and good behaviour for one year to the satisfaction of the Judicial Magistrate. The petitioner shall also remain under the supervision of the concerned probation officer during the aforesaid period. In the event of the petitioner failing to comply with the said direction or committing breach of the undertaking given by him, he shall be called upon to undergo the remaining period of sentence imposed upon him in the present case.

28. Accordingly, the present petition is partly allowed. While the conviction of the petitioner is affirmed, the order on sentence dated 10.07.2017 passed by the Chief Judicial Magistrate, Hoshiarpur, in Case No. CHI/385/2014, as modified by the learned Additional Sessions Judge, Hoshiarpur, vide order dated 18.07.2025, is hereby set aside. The sentence directing the petitioner to undergo rigorous imprisonment for one year and to pay a fine of Rs.4,000/- is also quashed. The petitioner is ordered to be released on probation on the basis of good conduct for a period of one year.

29. As Montesquieu observed, the certainty of mild yet consistent punishment serves as a far greater deterrent than the transient severity of harsh sentences. Guided by this enduring principle, it is directed that the petitioner shall also be liable to perform community service of plantation of 50 indigenous trees by approaching the Divisional Forest Officer, Hoshiarpur and for their maintenance for a period of 05 years.

30. In the event of the petitioner not being in the capacity to

deposit the cost of maintenance for a period of 05 years, he shall offer his services to the department of forests to set off the said cost as per the wages of an unskilled workers equal to adequate labour men hours for the equivalent period as prescribed by the concerned Deputy Commissioner.

31. The instant petition is partly allowed.
32. Pending application(s), if any, shall also stand disposed of.

(VINOD S. BHARDWAJ)
JUDGE

26.11.2025

Sumit Gusain

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