IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

108 **CRA-S-1612-SB-2005 (O&M)**
Date of Decision: 05.11.2026

Vikram and another

.....Appellants

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present : Mr. Arvind Kashyap, Advocate for the appellants.

Ms. Deepali Verma, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

The present appeal has been filed by the appellants against the judgment of conviction dated 08.09.2005 and order of sentence dated 09.09.2005, passed by the Court of learned Additional Sessions Judge Sonepat, hereinafter being referred to as 'trial Court' only.

2. Briefly stating the facts emerging from record are that one FIR, i.e. the FIR No.90 dated 28.12.2002, was lodged at the instance of 'SI Laxman Singh'. The abovesaid FIR was lodged for the commission of offence punishable under Sections 399 and 402 of Indian Penal Code and Section 25 of Arms Act, Police Station Mohana. In the wake of abovementioned FIR, the investigation was taken up by the police, and as an outcome of abovesaid investigation, the appellants along with co-accused, namely 'Ashok' and 'Karambir', were sent to face trial before the learned trial Court.

3. The appellants along with above-named co-accused participated in the abovementioned trial. By virtue of judgment dated 08.09.2005, hereinafter

being referred to as ‘impugned judgment’, the abovesaid trial culminated into conviction of the appellants for the offence under Section 25 of Arms Act only and acquittal of co-accused. Thus, vide order dated 09.09.2005, on the point of quantum of sentence, hereinafter being referred to as ‘impugned order’, following sentences were awarded to the appellants:-

Offence under Section	**Sentence**
25 of Arms Act	Rigorous imprisonment for a period of one year and to pay a fine of Rs.500/-. In default thereof to undergo further imprisonment (rigorous) for a period of one month.

4. In nut-shell, the facts emerging from record are that the FIR of this case came into being at the instance of ‘SI Laxman Singh’, who had reported that when he along with other police officials was present at the Bus Stop Mohana in connection with an investigation, he received a secret information that five young persons, armed with deadly weapons, had gathered in an abandoned area in the agricultural fields of village Pinana, and that were making preparations to commit dacoity. As per above named police offer, on receipt of abovesaid secret information, he constituted three raiding parties and tasked them to cordon off the spot. According to the above-named police officer, he overheard the persons assembled there and had their conversation. It was further reported reported that it was found that they were planning to commit dacoity, and therefore, he alarmed them and asked to surrender. According to abovesaid police officer in response to his call they attempted to escape, but were apprehended. As per prosecution on search of their person, a country-made pistol with a live cartridge was found in possession of

Dharamdev, whereas Vikram Singh was found in possession of a spring-actuated knife, Ashok and Karambir were in possession of iron rods, and Mahipal in possession of a wooden stick.

5. It was a case of the prosecution that on the basis of abovementioned information, formal FIR of this case was lodged and the investigation taken up. According to prosecution, during the course of investigation, the Investigating Officer inspected the spot, prepared rough site plan of the place of occurrence, recorded the statement of witnesses under Section 161 CrPC, and completed other formalities of investigation. Thereafter, the final report under Section 173 of CrPC was filed.

6. Heard.

7. It has been contended on behalf of appellants that the impugned judgment of conviction and order of sentence, passed by the learned trial Court were perverse and unsustainable. According to learned counsel for the appellants, merely on the basis of assumptions and presumptions, the unreliable and self-contradictory evidence adduced by the prosecution was believed by the learned trial Court. As per learned counsel for the appellants, the learned trial Court failed to apply its judicial mind to the facts of the case, and that merely, on the basis of conjectures and surmises, the finding of conviction of appellants, for the commission of offence under Section 25 of Arms Act, was recorded.

8. It has been further contended on behalf of appellants that the learned trial Court ignored this cardinal principle of criminal jurisprudence that the prosecution had to prove its case beyond the shadow of all reasonable doubts. According to learned counsel for the appellants, the evidence adduced

by the prosecution was grossly inadequate to draw an inference that all the essential ingredients, meant for the commission of offence, for which the appellants were convicted, had been proved. In view of above, the learned counsel for the appellants has contended that the case against the appellants was not proved by the prosecution, but erroneously the learned trial Court returned the finding of conviction.

9. However, during the course of arguments, the learned counsel for the appellants has contended that in the instant appeal, the appellants are not inclined to challenge the finding of conviction recorded by the learned trial Court. The learned counsel for the appellants has categorically contended that at this stage, by virtue of present appeal, the appellants are challenging the order on the point of quantum of sentence only.

10. It has been further contended by learned counsel for the appellants that the incident had taken place way back in the year 2002. According to learned counsel for the appellants, the appellant are facing the agony of litigation for the last more than 23 ½ years and has, in fact, already suffered more punishment than they deserved. According to learned counsel for the appellants, before or after the offence, related to present case, the appellants have not been prosecuted for any other offence.

11. In addition to above, the learned counsel for the appellants has argued that in the present case, the appellants have been held guilty for the commission of offence punishable under Section 25 of Arms Act, only, and that the maximum punishment prescribed for the abovementioned offence is imprisonment up to life. According to learned counsel for the appellants, since the appellants have not been convicted for any other offence ever, and the

maximum punishment prescribed for the abovementioned offence is imprisonment up to life, the benefit of probation/admonition may be accorded to him.

12. *Per contra*, the learned counsel for the respondent/State has argued that the appellants wer found guilty for the commission of offence punishable under Section 25 of Arms Act. According to learned counsel for the respondent/State, the sentence awarded to the appellants, i.e. imprisonment for a period of one year, is already on lower side, and that the appellants are not entitled to a sentence of less than one year. As per learned counsel for the respondent/State, the instant appeal has no merits and deserves dismissal.

13. With regard to prayer for the benefit of probation for the appellants, the learned counsel for the respondent/State has contended that *firstly* the offence committed by the appellants was serious in nature, and *secondly*, for the abovementioned offence, minimum sentence has been prescribed, and therefore, the benefit of probation cannot be accorded to the appellants.

14. The record has been perused carefully.

15. Although it is categorical stand of the appellants that they are not challenging the judgment of conviction, passed by the learned trial Court, yet, with a purpose to evaluate evidence, the record has been perused carefully. A perusal of trial Court record shows that the evidence adduced by the prosecution was thoroughly consistent, and good enough to bring home guilt of the appellant, for which they were charge-sheeted. Thus, it is hereby held that there is no scope for interference or indulgence in the findings recorded by the learned trial Court, with regard to conviction of appellants, for the offence

under Section 25 of Arms Act. Accordingly, the abovementioned finding is hereby affirmed and qua the judgment of conviction instant appeal is hereby dismissed.

16. A report of Probation Officer has been received. The same be taken on record. The arguments on the point of quantum of sentence heard.

17. The factual matrix of the present case shows that following are the points which are required to be taken into consideration: -

(a) that the incident in question had taken place more than 23 ½ years ago;

(b) that the appellants are facing the agony of protracted trial for the last more than 23 ½ years;

(c) that admittedly the appellants at the time of commission of alleged offence were first offender; and

(d) that the appellants have no criminal history and in the last more than 23 ½ years, the appellants have not been prosecuted for any offence, whatsoever.

18. As far as the benefit of probation is concerned, the relevant principles have been propounded by the Hon'ble Supreme Court of India in the case of 'Jugal Kishore Prasad v. State of Bihar' (1972) 2 SCC 633. The Hon'ble Supreme Court of India while considering the scope of the Probation Act has 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 as-*

sociation with hardened criminals of mature age in case the youthful offenders are sentenced to undergo imprisonment in jail. The above object is in consonance 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 recognises that no one is a born criminal and that a good many crimes are the product of socioeconomic 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. The Act gives statutory recognition to the above objective. It is, therefore, provided that youthful offenders should not be sent to jail, except in certain circumstances. Before, however, the benefit of the Act can be invoked, it has to be shown that the convicted person even though less than 21 years of age, is not guilty of an offence punishable with imprisonment for life. This is clear from the language of Section 6 of the Act. Sub-section (1) of that section reads as under: -

> "*When any person under twenty-one years of age is found guilty of having committed an offence punishable with imprisonment (but not with imprisonment for life), the Court by which the person is found guilty shall not sentence him to imprisonment unless it is satisfied that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it would not be desirable to deal with him under Section 3 or Section 4, and if the Court passes any sentence of imprisonment on the offender, it shall record its reasons for doing so.*"

19. The similar question was considered by the Hon'ble Supreme Court of India in a subsequent judgment, i.e. in the case of 'Chellammal and Another v. State' 2025 SCC Online SC 870. In the abovementioned case, the

Hon'ble Supreme Court of India has observed as under: -

> "*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 subsection 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.*
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> *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.*
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> *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 fulfillment 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."*

20. It shall not be out of place to mention here that in the present case, the benefit of probation has been sought for the appellants, who have been convicted under Section 25 of Arms Act, and for the commission of offence punishable under Section 25 of Arms Act, the minimum sentence has been prescribed, which is imprisonment for seven years. The maximum punishment, which can be awarded for the abovementioned offence is life imprisonment.

21. The learned counsel for the respondent/State has argued that the offence committed by the appellants, being an offence punishable with minimum sentence of seven years, the benefit of probation cannot be accorded. However, in my opinion, the abovementioned argument does not appear to be in consonance with law.

22. In the case of 'Lakhvir Singh etc. V/s The State of Punjab & Anr.' AIR 2021 SC 555, the Hon'ble Supreme Court of India accorded the benefit of probation to an accused, who was convicted for the offence under Section 397 IPC, for which also, the minimum sentence has been prescribed.

23. Similarly, in the case of 'Amit Singh V/s The State of Rajasthan' Criminal Appeal Nos.4860-4861 of 2024, the High Court of Rajasthan accorded the benefit of probation to the accused, who was convicted for the

commission of offence under Section-25 of Arms Act. In appeal before Hon'ble Supreme Court of India, the abovementioned benefit was affirmed.

24. Following the precedents discussed above, and taking into consideration the abovementioned factors, it is hereby observed that the ends of justice would be better served, if the benefit of probation is accorded to the appellants and they are released on probation of good conduct. In my considered opinion, in the given fact situation, instead of awarding sentence to undergo imprisonment for the period fixed by the learned trial Court, it shall be more appropriate that the appellants are given the benefit of probation of good behaviour, mandated under Section-360 of CrPC.

25. Accordingly, the instant appeal is ***partly allowed*** with regard to order on quantum of sentence and the same is hereby modified to the extent that the appellants shall be released on probation for a period of one year on furnishing requisite bonds before the learned trial Court. The appellants shall undertake to keep peace and maintain good behaviour for a period of one year. Obvious to say that in case of default with regard to terms & conditions of probation order, the appellants shall receive sentence as and when called upon to do so.

26. Pending miscellaneous application(s), if any, shall stand disposed of.

(SURYA PARTAP SINGH)
JUDGE

05.11.2026
Manoj Bhutani

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