

# Decided On : 08.01.2026 vs State Of H.P on 8 January, 2026

**Author: Virender Singh**

**Bench: Virender Singh**

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( 2026:HHC:2934 )

IN THE HIGH COURT OF HIMACHAL PRADESH AT  
SHIMLA

Cr. Revision No.227 of 2015  
Decided on : 08.01.2026

Pawan Kumar

.....Petitioner

Versus

State of H.P.

....Respondent

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Coram

of  
Hon'ble Mr. Justice Virender Singh, Judge

W h e t h e r a p p r o v e d f o r r e p o r t i n g ?

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Petitioner : Petitioner in person with Mr. Sidharth, Advocate, vice Mr. Vinod K. Gupta, Advocate.

For the Respondent : Mr. Tejasvi Sharma and Mr. H.S. Rawat, Additional Advocate General, with  
Ms. Ranjna Patial and Mr. Rohit Sharma, Deputy Advocate General.

Virender Singh, Judge (oral) Petitioner has filed the present Criminal Revision, against the  
judgment, dated 03.01.2011, passed by the Court of learned Additional Sessions Judge, Mandi,

Camp at Karsog, District Mandi, H.P. (hereinafter referred to as the 'Appellate Court'), in 2 ( 2026:HHC:2934 ) Criminal Appeal No.27/07, titled as 'Pawan Kumar versus State of H.P'.

2. Vide judgment, dated 03.01.2011, the learned .

Appellate Court has partly accepted the appeal, filed by the petitioner (hereinafter referred to as 'the convict'), against the judgment of conviction dated of 28.07.2007 and order of sentence, dated 31.07.2007, passed by the Court of learned Sub Divisional Judicial rt Magistrate, Karsog, District Mandi, H.P., (hereinafter referred to as the 'trial Court').

3. By virtue of judgment of conviction dated 28.07.2007 and order of sentence, dated 31.07.2007, the learned trial Court has convicted the convict, for the commission of offence, punishable under Sections 279, 337 and 338 of the Indian Penal Code (hereinafter referred to as 'IPC') and sentenced him as under:

Sr. No. Section Imprisonment Default 1 279 IPC Simple Simple imprisonment Imprisonment for a for a period of one period of six months month and to pay a fine of Rs. 500/-

3 ( 2026:HHC:2934 ) 2 337 IPC Simple Simple imprisonment Imprisonment for a for a period of one period of six months month and to pay a fine of Rs. 500/-

3. 338 IPC Simple Simple .

imprisonment for imprisonment for a a period of period of six months six months and to pay fine of Rs.1,000/-

4. The instant Cr. Revision has been admitted for of hearing by this Court, vide order, dated 07.09.2015.

5. Vide order, dated 15.12.2025, this Court has rt ordered to call for the report of the Probation Officer. In sequel thereto, the report of the Probation Officer has been received.

6. Today, the petitioner/convict has stated that he does not want to press the instant revision petition, filed against the judgment of conviction and prayed that he may be released on probation, as he is the sole bread earner of the family, consisting of his wife and two children.

7. The judgment of conviction dated 28.07.2007 and order of sentence, dated 31.07.2007, passed by the learned trial Court, perused.

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8. As per the said order, the learned trial Court, has not considered the question of releasing the convict on probation.

9. However, in view of the decisions of Hon'ble Supreme Court in Dalbir Singh versus State of Haryana, (2000) 5 Supreme Court Cases 82, and Thakur Singh versus State of Punjab, (2003) 9 Supreme Court Cases of 208, the said relief has been declined to the convict.

10. In this case, the report of the Probation Officer has been called for. In the report, the Probation Officer has recommended to extend the benefit of probation to the convict, vide his report, dated 07.01.2026.

11. Now, the question, which arises for determination, before this Court, is about the fact as to whether the relief of probation can be extended to the convict.

12. The Hon'ble Supreme Court, in Dalbir Singh's case (supra), has categorically excluded Section 304-A IPC.

Relevant paragraphs-13 and 14 of the judgment, are reproduced, as under:

"13. Bearing in mind the galloping trend in road accidents in India and the devastating consequences visiting the victims and their 5 ( 2026:HHC:2934 ) families, criminal courts cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the P.O. Act. While considering the quantum of sentence, to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of .

the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance think that a rash driving need not of necessarily cause any accident; or even if any accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence; and lastly that even if he is convicted he would be dealt with leniently by the court. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of vehicle he cannot escape from jail sentence. This is the role which the courts can play, particularly at the level of trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles.

14. Thus, bestowing our serious consideration on the arguments addressed by the learned counsel for the appellant we express our inability to lean to the benevolent provision to Section 4 of the P.O. Act. The appeal is accordingly dismissed."

13. Even, in the said judgment, the Hon'ble Supreme Court has held that the power of the Court to extend the benefit of probation, depends upon the nature of offence 6 ( 2026:HHC:2934 ) committed. In this regard, relevant paragraphs-8 to 10, of the judgment, are reproduced, as under:

"8. Parliament made it clear that only if the court .

forms the opinion that it is expedient to release him on probation for his good conduct regard being had to the circumstances of the case. One of the circumstances which cannot be sidelined in forming the said opinion is "the nature of the offence."

9. Thus Parliament has left it to the court to decide when and how the court should form such of opinion. It provided sufficient indication that releasing the convicted person on probation of good conduct must appear to the court to be expedient. The word "expedient" had been rt thoughtfully employed by the Parliament in the section so as to mean it as "apt and suitable to the end in view". In Black's Law Dictionary the word expedient is defined as "suitable and appropriate for accomplishment of a specified object" besides the other meaning referred to earlier. In State of Gujarat v. Jamnadas G. Pabri , AIR (1974) SC 2233, a three Judge Bench of this Court has considered the word "expedient". Learned Judges have observed in paragraph 21 thus: (SCC p. 145) "Again, the word 'expedient' used in this provisions, has several shades of meaning. In one dictionary sense, 'expedient' (adj.) means 'apt and suitable to the end in view', 'practical and efficient'; 'politic'; 'profitable'; 'advisable', 'fit, proper and suitable to the circumstances of the case'. In another shade, it means a device 'characterized by mere utility rather than principle conducive to special advantage rather than to what is universally right' (see Webster's New International Dictionary)."

10. It was then held that the court must construe the said word in keeping with the context and 7 ( 2026:HHC:2934 ) object of the provision in its widest amplitude. Here the word "expedient" is used in Section 4 of the P.O. Act in the context of casting a duty on the court to take into account "the circumstances of the case including the nature of the offence..... ..". This means Section 4 can be resorted to .

when the court considers the circumstances of the case, particularly the nature of the offence, and the court forms its opinion that it is suitable and appropriate for accomplishing a specified object that the offender can be released on probation of good conduct."

14. The decision of the Hon'ble Supreme Court, in of Dalbir Singh's case (supra), has again been considered by the Hon'ble Supreme Court, in State through Central rt Bureau of Investigation, Anti Corruption Branch, Chandigarh versus Sanjiv Bhalla and another, reported in (2015) 13 Supreme Court Cases 444. Relevant paragraph-28, of the judgment, is reproduced, as under:

"28. To sum up:

28.1. For awarding a just sentence, the trial Judge must consider the provisions of the Probation of Offenders Act and the provisions on probation in the Criminal Procedure Code; 28.2 When it is not possible to release a convict on probation, the trial Judge must record his or her reasons;

28.3. The grant of compensation to the victim of a crime is equally a part of just sentencing; 28.4. When it is not possible to grant compensation to the victim of a crime, the trial Judge must record his or her reasons; and 28.5. The Trial Judge must always be alive to 8 ( 2026:HHC:2934 ) alternative methods of a mutually satisfactory disposition of a case."

15. The Hon'ble Supreme Court, in Paul George versus State of NCT of Delhi, reported in (2008) 4 .

Supreme Court Cases 185, has released a person, who has been convicted, under Sections 279 and 304-A IPC. It would be profitable to reproduce relevant paragraph-12 of of the said judgment, as under:

"12. This litigation has been going on for the last 20 years and has been fought tenaciously through rt various courts, we are also told that the appellant who has had a good career throughout but for this one aberration has since been dismissed from service on account of his conviction. We, therefore, while dismissing the appeal, feel that the ends of justice would be met if we direct that the appellant be released on probation under Section 4 of the Probation of Offenders Act, 1958 on conditions to be imposed by the trial court. The appeal is disposed of in the above terms."

16. This Court, in cases, titled as Ram Rattan versus State of Himachal Pradesh, reported in 1989 (1) Sim.L.C. 359, and State of H.P. versus Khushal Singh & Anr., reported in 1997 (2) Cur. L.J. (HP) 235, has released the persons, on probation, who had been convicted under Sections 279 and 304-A IPC.

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17. Similarly, in Criminal Revision No. 151 of 2011, titled as Nand Kishore versus State of Himachal Pradesh, decided on 4th October, 2016, this Court has .

released a person, who was convicted, for the offences, punishable under Sections 279 and 337 IPC.

18. In view of the above, there is no legal hesitation to extend the benefit of the provisions of of Section 4 of the Probation of Offenders Act.

19. Perusal of the record shows that the convict is rt the first offender, the offence committed by him is not premeditated one and no subsequent offence has been stated to be committed by him.

20. The report of the Probation Officer perused.

21. The Probation Officer has specifically mentioned that the conduct of the convict, during past years, in the society, is good. Two other cases have been registered against him:-

(I) Case FIR No.152 of 2005, dated 23.10.2005 under Sections 279, 337 of IPC, registered with Police Station Karsog, in which accused convicted by Id. SDJM Karsog, dated 31.07.2007.

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(ii) Case FIR No.03/10, dated 19.01.2010, under Section 20 of ND&PS Act, PS CID Shimla, in which accused convicted by Id. Additional Sessions Judge, Shimla, dated 17.01.2012.

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22. As per the report submitted by the police, on 07.01.2026, petitioner has been acquitted, in case arising out of FIR No.3 of 2010, dated 19.01.2010, registered under Section 20 of ND&PS Act, with CID of Shimla, by this Court, on 16.03.2015.

23. The offences, for which, the convict has been rt convicted, are not punishable with death or imprisonment for life. The convict is having the permanent abode in District Mandi (Himachal Pradesh), as per the report of the Probation Officer.

There is nothing on the file to demonstrate that after the incident, upon which, the FIR was registered against the convict, any other incident, had taken place and no subsequent offence has been committed by him.

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24. The convict has already faced the agony of the trial, including the pendency of the appeal, for the last nineteen years.

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25. Our Criminal Jurisprudence System is reformatory in nature. With the passage of time, it has been realized that sending the first offender to jail, to of undergo substantive sentence, does not produce good results, as, the first offender/convict, sometimes, may rt come in contact with the hardened criminals.

26. The probation is a kind of non-custodial sentence, by giving an opportunity to the convict to reform himself, while abiding by certain conditions, imposed by the Court, for a certain period. It is a reformatory measure to achieve the object, by giving an opportunity to the convict, to reform himself, instead of directing him to undergo substantive sentence.

27. While, not pressing his revision petition, against the judgment of conviction, the learned 12 ( 2026:HHC:2934 ) counsel, appearing for the convict, on instructions, has categorically stated that the convict is the first offender and the sole bread earner of his family.

Rejecting the prayer of the convict to release him on probation, would amount to punishing his family members, for the offences, committed by the convict.

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28. Considering the nature of the offences, this Court is of the view that it would be expedient to release the convict on probation of good conduct, instead of directing him to undergo substantive sentence, as imposed by the learned trial Court.

29. Considering all these facts, the revision petition of the convict is dismissed against the judgment of conviction, however, in view of the discussions made above, the order of sentence is ordered to be modified. Instead of directing the convict to undergo the substantive sentence, he is directed to be released on probation of good conduct, on his furnishing personal bond in the sum of 50,000/-, 13 ( 2026:HHC:2934 ) with one surety of the like amount, to the satisfaction of the learned trial Court, to keep peace and be of good behaviour, for a period of two years and to receive the .

substantive sentence, as and when, called upon to do so, during the period of two years.

30. The convict is also directed to deposit a sum of Rs.8,000/-, which shall be in addition to the fine amount, already deposited by him, in this case, with the learned trial Court, within a period of one month from today. The said amount of Rs.8,000/- shall be paid to the injured person, namely Naresh Kumar (injured), as compensation, by the learned trial Court, after issuing notices to them, in this regard.

31. It is clarified that in case of violation of any of the conditions, so imposed, including the terms and conditions of the requisite bonds, the order of sentence shall revive automatically, without reference to this Court. In that eventuality, the convict is directed to 14 ( 2026:HHC:2934 ) surrender before the learned trial Court, to undergo the substantive sentence.

32. In view of the above, the revision petition is .

partly allowed. Pending miscellaneous applications, if any, are also disposed of accordingly.

(Virender Singh) Judge of January 08, 2026 (subhash) rt