State of H.P. versus Kaman Kumar

Cr.MP No.2116 of 2026 in Cr. Appeal No. 416 of 2014

Reserved on 27.05.2026

03.07.2026 Present: Mr Ajit Sharma, Deputy Advocate General, for the appellant/State.

Mr Naveen K. Bhardwaj, Advocate, for the applicant/respondent.

The respondent/applicant has filed the present application for releasing him on probation of good conduct. It has been asserted that the applicant/respondent was acquitted by the learned trial Court vide judgment dated 02.04.2014. The applicant was convicted by this Court vide judgment dated 15.05.2026. The matter was listed for hearing of the respondent/accused on the quantum of sentence. The applicant is a first-time offender. He has no previous criminal antecedents. The offence committed is not of a grave nature, and the applicant has shown sincere repentance for his act. The incident occurred 25 years ago, and the scenario has changed completely. The applicant is the sole earner of the family. He has four minor children, out of whom one is speech and hearing disabled. The applicant does not have any agricultural income or any other source of income. His family would suffer from

starvation by sentencing him to prison. Therefore, it was prayed that the present application be allowed and the applicant be released on probation.

2. No reply to the application was filed.

3. I have heard Mr Naveen K. Bhardwaj, learned counsel for the applicant/respondent and Mr Ajit Sharma, learned Deputy Advocate General for the non-applicant/State.

4. Mr Naveen K. Bhardwaj, learned counsel for the applicant/respondent, submitted that the incident had occurred 25 years ago. Much time has elapsed since then. The applicant has maintained good behaviour. He is no threat to society. His family would suffer from his detention. Therefore, he prayed that the present application be allowed and the applicant be released on probation of good conduct.

5. Mr Ajit Sharma, learned Deputy Advocate General for the non-applicant/State, submitted that the applicant was found guilty of the commission of offences punishable under Sections 279 and 338 of the IPC, which are serious in nature. A large number of people meet with accidents daily because of rash and negligent driving. A

deterrent view should be taken to save the innocent lives. Hence, he prayed that the present application be dismissed.

6. I have given a considerable thought to the submissions made at the bar and have gone through the records carefully.

7. It has been proved on record that the applicant was negligently driving the vehicle, which led to the grievous injuries to Gopal Dass. It was laid down by the Hon'ble Supreme Court in ***Dalbir Singh Versus State of Haryana (2000) 5 SCC 82*** that the benefit of the Probation of Offenders Act cannot be granted to a person convicted of rash or negligent driving, and a deterrent sentence is to be awarded to him. It was observed:

> "11. Courts must bear in mind that when any plea is made based on S. 4 of the PO Act for application to a convicted person under S. 304-A of I.P.C., road accidents have proliferated to an alarming extent, and the toll is galloping up day by day in India and that no solution is in sight nor suggested by any quarters to bring them down. When this Court lamented two decades ago that "more people die of road accidents than by most diseases, so much so the Indian highways are among the top killers of the country, the saturation of accidents was not even half of what it is today. So V. R. Krishna Iyer, J., has suggested in the said decision, thus :
>
> > "Rashness and negligence are relative concepts, not absolute abstractions. In our current conditions, the law under S. 304-A, I.P.C. and under the rubric of negligence, must have due regard to the fatal frequency of rash driving of heavy-duty vehicles and speeding menaces."

> 12. In ***State of Karnataka v. Krishna alias Raju (1987) 1 SCC 538,*** this Court did not allow a sentence of fine, imposed on a driver who was convicted under S. 304-A, I.P.C. to remain in force although the High Court too had confirmed the said sentence when an accused was convicted of the offence of driving a bus callously and causing the death of a human being. In that case, this Court enhanced the sentence to rigorous imprisonment for six months besides imposing a fine.
>
> 13. Bearing in mind the galloping trend in road accidents in India and the devastating consequences of visiting the victims and their families, Criminal Courts cannot treat the nature of the offence under S. 304-A, I.P.C. as attracting the benevolent provisions of S. 4 of the PO 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 thinking that rash driving need not necessarily cause an 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 mind the fear psyche that if he is convicted of the offence of causing the death of a human being due to his callous driving of a vehicle, he cannot escape from a 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 the callous driving of automobiles."

8. A similar view was taken in ***State of Punjab v. Balwinder Singh*****, *(2012) 2 SCC 182*****,** wherein it was held: -

> **"13.** It is a settled law that sentencing must have a policy of correction. If anyone has to become a good driver, they must have better training in traffic laws and moral responsibility, with special reference to the potential injury to human life and limb. Considering the increased number of road accidents, this Court, on several occasions, has reminded the criminal courts dealing with the offences relating to motor accidents that they cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the Probation of Offenders Act, 1958. We fully endorse the view expressed by this Court in ***Dalbir Singh [(2000) 5 SCC 82: 2004 SCC (Cri) 1208]***.

9. Similar is the judgment in ***State of Punjab v. Saurabh Bakshi, (2015) 5 SCC 182: (2015) 2 SCC (Cri) 751: 2015 SCC OnLine SC 278***, wherein it was observed at page 196:

> **"25.** Before parting with the case, we are compelled to observe that India has a disreputable record of road accidents. There is a nonchalant attitude among the drivers. They feel that they are the "Emperors of all they survey". Drunkenness contributes to careless driving, where other people become their prey. The poor feel that their lives are not safe, the pedestrians think of uncertainty, and the civilised persons drive in constant fear, but are still apprehensive about the obnoxious attitude of the people who project themselves as "larger than life". In such circumstances, we are bound to observe that the lawmakers should scrutinise, relook and revisit the sentencing policy in Section 304-A IPC. We say so with immense anguish."

10. In view of the binding precedents of the Hon'ble Supreme Court, it is not possible to grant the benefit of the Probation of Offenders Act to a person found guilty of negligently driving a vehicle. Hence, the present application fails and is dismissed.

11. List the matter for hearing the respondent on the quantum of sentence on **16.07.2026**.

(Rakesh Kainthla)
Judge

3rd July, 2026
(Nikita)