

**IN THE COURT OF SH. JOGINDER PRAKASH NAHAR
ADDITIONAL SESSIONS JUDGE (FTC-01)
CENTRAL DISTRICT, TIS HAZARI COURTS, DELHI**

**Sessions Case No. 172/2017
CNR No. DLCT01-003189-2017**

STATE VERSUS MOHD. SHAMIM & ANR.

FIR No.	: 689/2016
Police Station	: Sarai Rohilla
Under Section	: 3(1) of Child & Adolescent Labour (Prohibition and Regulation) Act, 1986 r/w Section 14 of Child & Adolescent Labour (Prohibition and Regulation) Act, 1986

ORDER ON SENTENCE

1. The present order shall grant order on sentence on convict no. 1 Mohd. Shamim after recording his conviction vide separate judgment dated 12.02.2026.
2. Arguments are heard on behalf of State and convict. The record is perused.
3. Accused was convicted under Section 3(1) of Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 r/w Section 14 of Child and Adolescent Labour (Prohibition and

Regulation) Act, 1986 for which minimum punishment is prescribed under Sub Clause (1) of Section 14 of the above Act. The imprisonment can extend upto two years or with fine which shall not be less than Rs. 20,000/- and which can extend upto Rs.50,000/- or with both.

4. Ld. Counsel for the convict has moved an application for releasing the convict on probation. Report of probation officer was called under Form III dated 20.03.2026 vide which he had recommended probation to the convict. Probation officer has reported that convict has good behaviour and he is 57 years old married man. He is taking care of his three unmarried sons and sole bread earner of his family. His father is senior citizen aged about 95 years look after by the convict. He has a wife to maintain and they are family of eight person. Two of his sons namely Adib and Yashaal are unemployed. The ld. Counsel for convict has relied on following citations to allow benefit of probation to the convict.

(i) Isher Das Vs. The State of Punjab AIR 1972 SC 1295

(ii) Joginder Singh Vs. State of Punjab 1980 Legal Eagle (P&H) 97

(iii) Raj Kumar Vs. State 2019(1) JCC 805 (Delhi)

(iv) Monica Sharma Vs. State 2004(2) CC Cases (HC) 19

**(v) Soni Kirit Jivan Vs. State of Gujarat 2006 Crl.
L.J. (NOC) 404 (Guj.)**

5. The main citation relied upon by the convict is titled ***Isher Das Vs. The State of Punjab AIR 1972 SC 1295*** granted by Hon'ble two Judge Bench has laid down that when there is minimum sentence prescribed then also probation can be granted to the convict. However Id. APP for the State has relied on citation titled ***CBI Vs. Md. Yaseen Wani and Ors. dated 04.03.2025 in Crl. Rev. No. 237/2023*** from Hon'ble High Court of Delhi which has further relied on citation titled ***Ishar Das Vs. State of Punjab AIR 1972 SC 1295*** granted by Hon'ble two Judge Bench. The above citation has placed further reliance on ***Superintendent Central Excise Vs. Bahubali dated 05.10.1978 AIR 1979 SC 1271*** which is granted by Hon'ble three Judge Bench and has laid down the law that where a minimum sentence is prescribed Section 18 of Probation of Offenders Act, 1958 is not applicable. Further, the nature of present case is protection of innocent child to be employed in such industries which is detrimental to their health and well being. Where there is minimum punishment prescribed then it bars judicial discretion in awarding punishment or in releasing an offender on probation in lieu of sentencing him. Special Act has to prevail over the Probation of Offenders Act, 1958. In view of citation titled ***State of Madhya Pradesh Vs. Vikram Das AIR 2019 SC 835*** while placing reliance on citation titled ***State Vs. Ratan Lal Arora*** has laid down that where a minimum sentence is prescribed then the

provision of Probation Act cannot be invoked if the special Act contains any provision to enforce the same with or without reference to any other Act containing a provision in derogation of special enactment and there is no scope of extending benefit of probation to such convict.

6. In such view of the matter it is held that the citation relied upon by the convict herein are not applicable to the fact of the case keeping in view the nature of offence in the present matter and when numerous measures are taken by the Government to prevent child related abuses then the convict herein deserve strict punishment. In the fact and circumstances of the case the **Convict Mohd. Shamim herein is sentenced to rigorous imprisonment for a period of one year under Section 3(1) of Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 r/w Section 14 of Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 for which minimum punishment is prescribed under Sub Clause (1) of Section 14 of the above Act and further sentenced to fine of Rs.25,000/- in default of payment of which he is further sentenced to simple imprisonment for a period of one month. Both the sentence to run consecutively.**

6.1 Hence benefit is extended to convict under Section 428 Cr. PC of having remained in custody in such other cases during trial also of the present case and not otherwise. As per nominal roll of the convict the period of custody spent by him. The custody period spent in jail by

the convict is given as under:

S.No.	Name of the Convict	Years	Months	Days
1.	Convict No. 1 Md. Shamim	00	00	14

7. The convict has been informed of their right to prefer an appeal against the judgment and order on sentence. Conviction warrant be prepared accordingly.

8. **At this stage accused has moved an application for grant of bail to him on sentence under Section 389(3) of Cr. PC to seek remedy of appeal against his conviction on sentence. Heard. The convict is granted bail under Section 389(3) of Cr. PC for a period of 45 days from today keeping in view the fact that there are intervening summer vacation during such period granted to the applicant/convict for appeal.** The convict is therefore asked to report before present Court on **17.07.2026**. Convict submits that he had already submitted bail bond under Section 437A of Cr. PC/481 of BNSS which are therefore continue to remain in force and applicable for the period of six months from the date of passing of this sentence. Accordingly the above bail bond are accepted in favour of the convict.

9. Fine is paid by the convict and receipt of fine is issued to him and therefore on such payment of fine it is recorded that convict is not

required to serve the sentence of simple imprisonment for a period of one month in default of payment of fine.

Copy of order on sentence be sent to the concerned Jail Superintendent, Tihar Jail, New Delhi today itself and dasti copy of judgment and order on sentence be supplied to the convict free of cost.

File be consigned to Record Room after due compliance.

**Announced in the open Court
on 02.06.2026.**

**(JOGINDER PRAKASH NAHAR)
ADDITIONAL SESSIONS JUDGE (FTC-01)
CENTRAL/TIS HAZARI COURT
DELHI**