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SLP(Crl.)No. 1846 OF 2001
ITEM No.38

Court No. 9

SECTION II
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No. 1846/2001

(From the judgement and order dated 02/08/2000 in CRLR 1697/86
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

BHAGWAN DAS

Petitioner (s)

VERSUS

STATE OF U.P.

Respondent (s)

(With Appln(s). for c/delay in filing SLP, and with Crl.M.P.No.
5305/2001 for releasing the petitioner on probation)

Date : 06/08/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH
HON'BLE MR. JUSTICE R.P. SETHI

For Petitioner (s)

Mr.Syed Ali Ahmad,Adv.,
Mr.Syed Tanweer Ahmad,Adv.,
Girdhar G. Upadyay,Adv.
Mr. R.D. Upadhyay,Adv.

For Respondent (s)

Mr.K.L. Janjani,Mr.Mukesh Verma,
Mr.Pankaj Kumar Singh,Mr.R.C.Verma,Advs.

UPON hearing counsel the Court made the following

O R D E R

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Delay condoned.
Leave granted.

The appeal is allowed. The conviction of the
appellant is maintained and it is directed that the
appellant be released on probation for a period of one year
by executing a bond before the concerned magistrate for
maintaining good behaviour within the period in question.
The appeal stands disposed of accordingly.

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(Vijay Kumar Sharma)
Court Master

(K.K. Chadha)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CRL. APPELLATE JURISDICTION

CRL. APPEAL NO. OF 2001@@
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(Arising out of SLP (Crl) No.1846/2001)

BHAGWAN DAS

Appellant

Versus

STATE OF U.P.

Respondent

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Delay condoned.
Leave granted.
Heard the learned counsel for the parties.

The appellant is convicted for the offence punishable under Sections 7(1), 16 (1) (a) (i) of the Prevention of Food Adulteration Act and is sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.1,000/-. In default in the payment of fine to undergo rigorous imprisonment for three months.

At the time of the hearing of issuing notice this Court observed that the appellant was aged less than 18 years on the date of occurrence and, therefore, question which was required to be considered was whether benefit of Probation of Offenders Act, 1958 can be granted to him under the Food Adulteration Act.

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At the time of the hearing of this matter, learned counsel for the appellant relied upon the decision rendered by this Court in Rajbir vs. State of Haryana@@
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AIR 2000 SC 3472 wherein this Court has observed that since on the date of the commission of the offence the appellant was below 18 years of age he is entitled to the benefit of Section 20-AA of the Act read with Section 360 Cr.P.C.

Same are the facts of the present case. Admittedly, the appellant was below the age of 18 years on the date of commission of the offence. Under Section 20-AA of the Act, the prohibition is that Probation of Offenders Act, 1958 and Section 360 of the Criminal Procedure Code, 1973 will not apply to a person convicted of an offence under the Act if he is above the age of 18 years. However, if he is under 18 years of age on the date of commission of offence, he is entitled to get benefit of the Probation of Offenders Act or Section 360 of the Cr.P.C.

Hence this appeal is allowed. The appellant has already undergone sentence for about three months, we maintain the conviction but direct that the appellant be released on probation for a period of one year by executing a bond before the concerned magistrate for

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maintaining good behaviour within the period in question. The appeal stands disposed of accordingly.

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.....J.
(M.B. Shah)

.....J.
(R.P. Sethi)

New Delhi,
August 6, 2001