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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 05.12.2018

+ CRL.REV.P. 410/2018 & CrI. M. (Bail) 785/2018

RAJESH SINGH

..... Petitioner

versus

STATE

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. A. Madhukar and Mr. Pranjal Shekhar, Advs.
(DHCLSC)

For the Respondent : Ms. Kusum Dhalla, Addl. PP for the State

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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05.12.2018

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns judgment dated 31.10.2017 whereby the appellate court has dismissed the appeal of the petitioner impugning order on conviction dated 12.03.2015 and order on sentence dated 07.04.2015.

2. The petitioner has been convicted of the offences punishable under Sections 279/304A of the Indian Penal Code, 1860, Police Station Defence Colony. Petitioner has been sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of

Rs. 1,000/- for the offence under Section 279 and to undergo RI for a period of 1½ years for the offence under Section 304-A IPC and he has been further sentenced to undergo RI for a period of six months with a fine of Rs. 1,000/- for the offence under Section 185 of the Motor Vehicles Act.

3. Learned counsel for the petitioner submits that the trial court as well as the appellate court have not appreciated the evidence correctly. He submits that the Courts have erred in not appreciating the evidence and this was a case of sheer accident and the petitioner was not driving the truck at fast speed. He submits that prosecution has failed to prove the speed of the vehicle and merely on the statement of the alleged eye-witness convicted the petitioner.

4. Learned Counsel submits that the Petitioner is a driver and is the sole bread earner of the family and has a family which is dependent upon him for sustenance.

5. Learned Addl. PP submits that the petitioner has been rightly convicted as the eye-witness who witnessed the accident duly supported the case of the prosecution and has deposed that the petitioner had jumped the red light and was found driving in rash and negligent manner and the medical examination of the petitioner also shows that the petitioner was intoxicated while he was driving the truck.

6. On perusal of the record and also as per the nominal roll dated 17.07.2018, it is seen that the unexpired portion of sentence was six months and 17 days. Thereafter, 4½ months have passed and the petitioner may also have earned some remission.

7. On perusal of the record I am of the view that impugned order dated 31.10.2017 dismissing the appeal of the petitioner impugning order on conviction dated 12.03.2015 does not warrant any interference.

8. The petitioner has already paid the fine amount as is evidence from the nominal roll.

9. However, keeping in view the facts and circumstances of the case and also the fact that petitioner has served nearly his entire sentence and only about one month is remaining, I am of the view that interest of justice would be served in case the sentence of the petitioner is reduced to the period already undergone.

10. The petition is accordingly disposed of in the above terms.

11. Order *dasti* under signatures of the Court Master.

12. Copy of the order be forwarded to the concerned Superintendent Jail for compliance.

DECEMBER 05, 2018/‘rs’

SANJEEV SACHDEVA, J