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

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Judgment delivered on: 09.01.2018

+ CRL.REV.P. 298/2017

RAJ KUMAR

..... Petitioner

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Advocates who appeared in this case:

For the Petitioner

:Mr. Sunil Gautam, Advocate

For the Respondents

: Mr. Arun Kumar Sharma, APP for the State
SI Ashish Gaba, P.S. Kashmere Gate

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

09.01.2018

SANJEEV SACHDEVA, J. (ORAL)

CRL.REV.P. 298/2017 & CrI.M.(B) 712/2017(suspension of sentence)

1. The petitioner impugns judgment dated 09.03.2017 in Criminal Appeal No.12/2015, whereby the Appeal against Conviction Order dated 16.07.2015 and order dated 14.08.2015 on point of sentence has been rejected.

2. The petitioner was convicted for having committed an offence

on 01.03.2007 under Sections 279/304-A IPC of rash and negligent driving and causing death by negligence.

3. The petitioner was sentenced to Simple Imprisonment for a period of four months under Section 279 IPC along with fine of Rs.1,000/- and in default of payment of fine, SI for 15 days and sentenced to Simple Imprisonment for a period of one year for the offence under Section 304-A IPC along with fine of Rs.5,000/- and in default of payment of fine, SI for a further period of one month.

4. The Nominal Roll has been received from the concerned Superintendent Jail. The Nominal Roll shows that the petitioner has undergone major part of the sentence and only 28 days are remaining to be served. The Nominal Roll indicates that the jail conduct of the petitioner has been satisfactory.

5. It is submitted by the learned counsel for the petitioner that the petitioner is the only bread earner in the family having seven dependent members and was a driver earning very meagre amount. He submits that dependents of the petitioners are meeting their day-to-day expenses with the great difficulty.

6. Learned Additional Public Prosecutor opposes the Petition. He submits that the maximum sentence awardable under Section 304-A is two years. A lenient view has already been taken in the case of petitioner and only a sentence of one year has been awarded.

7. Considering the facts and circumstances of the case and the fact that petitioner has already undergone, virtually, the entire sentence and only 28 days, as of today, are remaining to be served and also that the conduct of the petitioner in jail was satisfactory and the fact that the petitioner is the sole bread earner of his family and has to support his dependents and has realised his mistake and is remorseful of his act, though I am not inclined to interfere with the findings returned in the conviction order dated 16.07.2015 or the order in Appeal dated 09.03.2017, I am of the view that the petitioner should be given a chance to reform himself. Consequently, the order on sentence is modified to the period already undergone by him in this case.

8. In view of the above, the petitioner be released in this case, if not required in any other case.

9. The Petition is accordingly allowed in the above terms.

10. Order *Dasti* under signatures of the Court Master. Order be also communicated to the concerned Superintendent, Jail for compliance.

SANJEEV SACHDEVA, J

JANUARY 09, 2018

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