

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

Date of Order: December 21, 2018

+ CRL.A. 1261/2018

VIPIN

..... Appellant

Through: Mr. Mayank Mikhail Mukherjee,
Advocate

Versus

STATE

..... Respondent

Through: Ms. Neelam Sharma, Additional
Public Prosecutor for State with SI
Pankaj Kumar, P.S. Karawal
Nagar, Delhi.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Crl.M.A. 50515/2018 (for Delay)

There is delay of 10 days in filing the accompanying appeal.

Upon hearing, I find that averments made in the instant application provide sufficient cause to condone the delay occasioned. The application is allowed and the delay stands condoned.

The application stands disposed of.

CRL.M.A. 50514/2018 (Exemption)

Allowed, subject to all just exceptions.

CRL.A. 1261/2018 & CRL.M.(BAIL) 1972/2018 (under Section 389 Cr.P.C. for suspension of sentence)

1. Along with this Appeal, copy of evidence of the parties has been filed.

2. Upon hearing, I find that conviction of appellant is well merited. However, on the question of sentence, notice is issued to respondent for the offence under Section 308 of IPC.

3. Ms. Neelam Sharma, learned Additional Public Prosecutor for respondent-State accepts notice.

4. Appellant has been sentenced to rigorous imprisonment for 2 years with fine of ₹5,000/- and in default of payment of fine, he has been directed to undergo simple imprisonment of one month.

5. Upon hearing and on perusal of order on sentence of 10th October, 2018, I find that appellant is said to be only bread-earner of his family and has to support his old-aged parents and does not have any criminal record. The prayer made by appellant before trial court for grant of probation has been brushed aside without any valid justification.

6. During the course of hearing, learned counsel for appellant submits that appellant has faced the agony of trial in this case for the last 4 years and has not misused the concession of bail. In view of afore-referred background of appellant, it is a fit case for grant of probation to him.

7. In these facts and circumstance of this case, while maintaining conviction of appellant, the order of 10th October, 2018 on sentence is set aside while granting the benefit of probation to appellant.

8. Let appellant appear before the trial court to enable him to furnish the probation bond within four weeks in the sum of ₹10,000/- with one local surety of the like amount to the satisfaction of trial court. Upon

acceptance of the probation bond, let appellant be released on probation for a period of one year to the satisfaction of Probation Officer.

9. It is made clear that in case appellant is found to be misusing the probation granted to him, then the sentence awarded to him shall stand restored forthwith. Till the acceptance of the probation bond of appellant, he shall continue on interim bail on the same terms and conditions as directed by the trial court.

10. This appeal and application are disposed of in aforesaid terms.

(SUNIL GAUR)
JUDGE

DECEMBER 21, 2018

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