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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 777/2019 & CRL.M.As.31894-95/2019**

AMAR SINGH

..... Petitioner

Through: Mr. Rajiv Bajaj & Ms. Sagarika
Wadhwa, Advocates

versus

STATE

..... Respondent

Through: Mr. Amit Chaddha, APP with
SI Prem Kumar, PS:Mehrauli,
Delhi

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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14.10.2019

1. Learned counsel for the petitioner submitted that the compensation amount of Rs.30,000/- has already been deposited on 26.8.2019, copy whereof has been placed on record.

2. Learned counsel for the petitioner submitted that taking into consideration the age as well as the socio-economic condition of the petitioner and his family, the present petition may be treated as a mercy petition and the petitioner may be released for the period already undergone or his sentence may be reduced.

3. Learned APP, on the query of the Court, submitted that the petitioner, as per Nominal Roll, has already undergone 7 months and 25 days as on date and has also earned remission for one month and the unexpired portion of his sentence is 3

months and 5 days.

4. A report regarding socio-economic status of the petitioner has been filed, wherein it is stated that the petitioner's family consists of his wife and three daughters, aged 11, 8 and 4 respectively, who are presently residing at H.No.9, area measuring 30 sq. yds., Prem Nagar, Lal Quan, M.B. Road, PS:Pul Prehladpur, New Delhi. The roof of the said house is covered by a tin shed. It is also stated therein that the two daughters of the petitioner are studying in the schools. However, the wife of the petitioner does not work anywhere as she has to look after her three daughters. It is also stated in the said report that the father of the wife of the petitioner, who is a labourer, supports her by giving Rs.1,500-2,000/- per month. The said report also discloses that the petitioner is having no previous involvement in any criminal case.

5. The petitioner has filed the present petition under Section 401 read with Section 397 of the Code of Criminal Procedure, 1973 against the impugned judgment dated 15.2.2019 passed by the learned Additional Sessions Judge in CrI. A. No.413/2018, upholding the judgment and order on sentence dated 13.7.2018 and 24.9.2018 passed by the learned Metropolitan Magistrate in FIR No.594/01 under Sections 279/304-A/427 of the Indian Penal Code, 1860 (IPC) and Sections 3/181 of the Motor Vehicles Act, 1988.

6. The Trial Court, vide order dated 13.7.2018, convicted the petitioner for the offence punishable under Sections 279/304-of the IPC and vide order dated 24.9.2018, the petitioner was sentenced to undergo rigorous imprisonment (RI) for one year and to pay compensation of Rs.30,000/- to the legal heirs of the deceased, Majid for the offence under Section 304-A IPC and in default of payment of compensation, the petitioner was to undergo SI for one month. The petitioner was also sentenced to undergo RI for one month for the offence under Section 279 IPC. Both the sentences were ordered to run concurrently.

7. The petitioner thereafter filed an appeal, challenging the order dated 24.9.2018 before the Appellate Court. However, the appeal was dismissed by the Appellate Court vide judgment dated 15.2.2019.

8. Learned counsel for the petitioner reiterated and again submitted that taking into consideration the socio-economic condition, the age of the children and the plight of the family of the petitioner, the impugned order may be modified and a sympathetic view be taken.

9. Accordingly, taking into consideration the aforesaid facts, more so the socio-economic condition and welfare of the family of the petitioner, particularly the fact that the petitioner is having three minor daughters, who are dependent on the financial assistance provided by the father of the wife of the

petitioner and do not have sufficient sources to maintain themselves as well as the age of the petitioner, the offence committed, the period already undergone, the conduct in jail as satisfactory, with no history of previous conviction and the culpability, I am of the view that the ends of justice would be met if the sentence of imprisonment awarded to the petitioner is modified and reduced to the period already undergone. Accordingly, the conviction order is upheld and the order on sentence awarded to the petitioner is modified to the period of imprisonment already undergone.

10. The petition is accordingly, partly allowed and disposed of in the above terms.

11. Copy of this order be also sent to the Jail Superintendent, Tihar Jail, New Delhi for updating the jail record, with a direction to release the petitioner forthwith, if not required in any other case.

CHANDER SHEKHAR, J

OCTOBER 14, 2019

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