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

% *Order pronounced on 23.05.2022*

+ CRL.A. 280/2021 & CrI.M.B.1200/2021

NAUSHAD @ BOMBAY Appellant
Through: Mr. Rakesh Sherawat, Mr. Tara
Shankar Jha and Ms. Priti Agarwal,
Advocates.

versus
STATE GOVT. OF NCT OF DELHI Respondent
Through: Ms. Meenakshi Chauhan, APP for
State.
SI Vishvendra Singh, PS Mayur
Vihar.

CORAM:
HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:

CrI.M.B.1200/2021

1. This is an application under section 389 of the Code of Criminal Procedure for suspension of sentence and release of applicant/appellant on bail.
2. It has been submitted that the appellant was convicted vide judgment dated 04.08.2021 and order on sentence dated 06.08.2021 passed in Sessions Case No. 3550/2019, titled as "State v. Naushad @ Bombay & Anr.", in FIR No. 163/2019 under Section 392/397/34 IPC registered with PS Mayur Vihar and he was sentenced to undergo Rigorous imprisonment for a period of 7 years and also to pay a fine of Rs. 10,000/- and in default to undergo simple imprisonment for three months.
3. The appeal preferred by the present applicant/appellant stands



admitted on 17.02.2022. Notice was issued in the present application. Status report as well as the latest nominal roll have been requisitioned from jail.

4. I have heard arguments. Learned counsel for the appellant has submitted that nothing was recovered from the possession of the present applicant; he was initially arrested in another case and he was roped in the present case only on the basis of a disclosure statement of the co-accused. He had refused to participate in TIP as he was already in custody and till date he had already undergone 2 years and 7 months of incarceration out of 7 years awarded by the trial Court. Moreover, he is not a previous convict and it has been prayed that he may be released on bail after suspending the sentence as the appeal is not likely to be heard soon.

5 The status report filed by the State mentions that on gun point the complainant was robbed of his four gold rings. The present accused was also involved in another matter, being FIR No. 231/2019 under Section 411 IPC and 25 Arms Act; he was arrested on disclosure statement in this case on 17.07.2019. The weapon used in the incident of the present case was recovered from the present applicant, which was given by the accused Danish, who was the Gang Leader. The scooty used in the incident was also given by accused Danish. Other co-accused Salman @ Buppy was arrested at the instance of present applicant. The present applicant and co-accused Salman@ Buppy refused to participate in TIP.

5.1 The Charge-sheet was filed. During the course of trial charges have been framed against the present accused under Section 392/397/34 IPC and accused Salman @ Buppy under Section 392/34 IPC. Both the accused were identified by the complainant during trial and after the completion of



trial both of them were held guilty and sentenced accordingly.

6. This is not a stage to discuss the evidence recorded in the trial in detail, however, the State has indicated that the weapon of offence was recovered from the present applicant/appellant; the applicant/appellant refused to join TIP and he was duly identified in Court and out of total sentence of RI of 7 years and fine of Rs.10,000/- and in default of fine, SI for three months, the present applicant/appellant has undergone only 2 years and 7 months sentence; so at this stage, I am not inclined to suspend the sentence awarded to the present applicant/appellant.

7. The application is accordingly dismissed.

TALWANT SINGH, J

MAY 23, 2022/mr

[Click here to check corrigendum, if any](#)