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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 56/2024**
SANJAY SEJWAL

..... Petitioner

Through: Mr.Ramesh Gupta, Sr. Adv.
with Mr.Shailendra Singh,
Mr.Harsh Choudhary &
Mr.Ishaan Jain, Advs.

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Aman Usman, APP for
State along with SI Raj Kumar
Singh, PS Ambedkar Nagar.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **19.01.2024**

CRL.M.A. 1399/2024 (exemption)

1. Allowed, subject to all just exceptions.

CRL.REV.P. 56/2024 & CRL.M.(BAIL) 109/2024

2. This petition has been filed challenging the order dated 08.01.2024 passed by the learned Additional Sessions Judge-06 (South) Saket Courts, New Delhi (hereinafter referred to as 'Trial Court'), sentencing the petitioner herein to undergo simple imprisonment of six months for an offence under Section 323/34 of the Indian Penal Code, 1860 (in short, 'IPC'). He has also directed to pay a fine of Rs.1,000/- along with compensation of Rs.20,000/- to be paid to the injured under Section 357(3) of the Code of Criminal



Procedure, 1973 (in short, 'CrPC').

3. The learned senior counsel for the petitioner submits that the petitioner has been wrongly denied the benefit of being released on probation. He submits that the criminal cases cited against the petitioner were duly explained by the petitioner as recorded in paragraph 5 of the Impugned Order, as under:-

“5. In rebuttal, it was submitted by Ld. Defence Counsel that none of the cases mentioned in the previous involvement report of the convict was pending as on date. It was submitted that FIR No. 113/2014, PS Mehrauli was not related to him. It was further submitted that FIR No. 657/2016, PS Mehrauli was pertaining to DMC Act and cognizance thereupon had been declined by Ld. MM vide order dated 25.08.2023. Similarly, FIR No. 229/2017, PS Vasant Kunj North (South) was a case in which police itself filed a closure report and in FIR No. 465/1999, PS Malviya Nagar, he was acquitted. Copy of FIR No. 133/2014, PS Mehrauli alongwith uncertified copy of order dated 25.08.2023 of Ld MM in FIR No. 657/2016, PS Mehrauli were placed on record.”

4. On the above submission, the learned Additional Sessions Judge was pleased to direct the SHO Police Station: Ambedkar Nagar to verify the status of these cases. In the report filed, it was mentioned that as far as FIR No. 113/2014 Police Station: Mehrauli is concerned, the petitioner was not involved. For the remaining cases, it was mentioned that the files were sent to the Court and the current status thereof was not available. He submits that in spite of such a report, based only on the assertion that the petitioner is involved in other cases, the benefit of probation was refused to the petitioner. He



submits that the petitioner has already undergone more than 20 days of custody. He submits that the petitioner has deposited the fine and also undertakes to deposit the compensation awarded by the learned Additional Sessions Judge in favour of the injured with the learned Trial Court within a week from today.

4. On the other hand, the learned APP for the State submits that keeping in view the cases in which the petitioner is stated to be involved, it would not be a fit case to grant the benefit of probation to the petitioner.

5. I have considered the submissions made by the learned counsels for the parties.

6. It is the case of the petitioner that in the cases cited against the petitioner, either he was not arrayed as an accused or a closure report has been filed, or he was acquitted.

7. Keeping in view the above, and as the petitioner has already undergone imprisonment of more than 20 days (pre-trial and post-conviction), as also the nature of allegations against the petitioner for which he has been convicted, and also the fact that the co-accused have been released on probation, in my view, interest of justice will be served by reducing the sentence of the petitioner to that of undergone.

8. The petitioner be released, if not required in any other case, forthwith.

9. The petitioner shall, however, deposit the fine and the compensation imposed by the impugned order, if not already deposited, with the learned Trial Court, within a week from today. The petitioner shall also furnish a bond for good conduct for a period of



six months for a sum of Rs.50,000/- to the satisfaction of the learned Trial Court.

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

11. Copy of the order be sent to the Jail Superintendent as also to the learned Trial Court for information and necessary compliance.

NAVIN CHAWLA, J

JANUARY 19, 2024/rv/RP

Click here to check corrigendum, if any