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

+ CRL.A. 621/2003 & CRL.M.A. 2420/2003 (Suspension of sentence)

RAJESH SHARMA Appellant

Through: Mr. Rajesh Mahajan, Advocate.

versus

THE STATE OF NCT OF DELHI Respondent

Through: Mr. Mukesh Kumar, APP for the
State.
SI Baleshwar, PS Najafgarh.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

ORDER
16.02.2024

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1. The present appeal under Section 374 of the Cr.PC. challenges the judgment of conviction dated 09.05.2003 and order on sentence dated 14.05.2003, passed by Sh. H. S. Sharma, learned ASJ, New Delhi in FIR no. 454/2001 under Section 307 of the IPC, registered at PS Najafgarh, whereby the appellant has been convicted for offences under Sections 307 of the IPC and has been sentenced to undergo rigorous imprisonment for 5 years alongwith fine of Rs. 100/- and in default, further rigorous imprisonment for 1 day.
2. Learned counsel appearing on behalf of the appellant, on instructions from the latter, who is present in court today, submits that appellant does not press the challenge in the present appeal with respect to the judgment of



conviction dated 09.05.2003. However, it is prayed that the order on sentence dated 15.08.2003 may be modified and reduced to the extent of the period undergone by the present appellant. Learned counsel appearing on behalf of the appellant submits that the appellant is a cab driver and has a family to sustain and support. It is submitted that the FIR pertains to an incident of 2001 when the appellant was of approximately 21 years of age.

3. Heard learned counsel for the parties and perused the record.

4. As per the nominal roll dated 17.01.2024 received by this Court, as on 26.07.2004, the appellant has undergone a sentence of 02 years 07 months and 15 days out of the 5 years awarded to him in the present case (the unexpired portion of his sentence is 2 years and 13 days). As per the nominal roll the conduct of the present appellant was satisfactory during the period of incarceration. It is submitted that the appellant is a cab driver and has a family to sustain and support, as aforementioned. It is further reflected that there is no other case in which the present appellant has been involved.

5. In totality of the facts and circumstances of the case, no useful propose will be served by sending the present appellant to undergo further incarceration, in view of the mitigating factors, as pointed out hereinabove. In the interest of justice, the order on sentence dated 14.05.2003 is modified and reduced to the period of sentence already undergone by the appellant, as per the nominal roll dated 17.01.2024.

6. The appeal is partly allowed and disposed of accordingly.

7. Pending application(s), if any, also stand disposed of.

8. Bail bonds furnished by the appellant stand discharged.

9. Copy of the order be sent to the concerned Jail Superintendent, for necessary information and compliance.



10. Order be uploaded on the website of this court *forthwith*.

FEBRUARY 16, 2024/sn

AMIT SHARMA, J