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

+ CRL.A. 799/2024

RAHUL @AMAN

.....Appellant

Through: Mr. Manish Sangwan & Mr. Ashwani
Tehlan, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Hitesh Vali, APP for the State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

13.12.2024

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Pursuant to what was recorded in last order dated 06.12.2024, Mr. Manish Sangwan, learned counsel appearing for the appellant submits that he has taken instructions as to whether the appellant wishes to avail the benefit of the directions of the Supreme Court passed *vide* order dated 06.10.2021 made in SLP (Crl.) No. 529/2021 titled *Sonadhar vs. The State of Chhattishgarh*, by accepting his conviction and not pressing the present appeal on merits, *if* he is released on the period of sentence he has already undergone.

2. Mr. Sangwan submits, that the appellant is ready and willing to accept his conviction and be released on the period undergone.
3. In the present case, the appellant has been convicted for the offence under sections 392/397 of the Indian Penal Code, 1860 ('IPC') *vide* judgment of conviction dated 14.05.2024 and has been sentenced *vide* sentencing order dated 08.07.2024 to rigorous imprisonment for 07 years for offence under section 392 IPC along with fine of



Rs.25,000/-, with a default sentence of simple imprisonment for 06 months; and to rigorous imprisonment for 07 years for the offence under section 397 of the IPC arising from case FIR No. 495/2016 registered under sections 392/397/411/34 of the IPC at P.S.: Kalyanpuri, Delhi. Both sentences were directed to run concurrently.

4. Nominal Roll dated 05.08.2024 received from the Jail Superintendent shows that as of 04.08.2024 the appellant has already served 06 years 02 months and 05 days of actual custody; and that the unexpired portion of his sentence is about 09 months and 25 days.
5. The nominal roll shows that the appellant is also implicated in another case bearing FIR No. 383/2021 registered under sections 392/34 at P.S.: Ghazipur, New Delhi, in which he stated to be on bail.
6. Though the appellant's overall jail conduct is stated to be 'unsatisfactory', the nominal roll lists-out the prison punishments that have been awarded to him, which punishments he has served. Otherwise, the nominal roll shows that the appellant's jail conduct for last one year has been 'satisfactory'; and he has been working as '*sahayak*'.
7. Mr. Hitesh Vali, learned APP appearing for the State points-out that other than the substantive prison sentence awarded to him, the learned trial court has also imposed upon the appellant fine of Rs.25,000/-, with a default sentence of 06 months.
8. On instructions of the appellant, Mr. Sangwan submits that the appellant does not have the wherewithal to pay the entire fine and the court may consider reducing the fine.



9. In the circumstances, what prevails with the court is that the appellant has served substantially his entire sentence of 07 years for the offences for which he was convicted; and that in terms of the mandate of the Supreme Court in *Sonadhar* (supra), an endeavour must be made by the court to see if a convict is willing to accept his conviction; and if that be so, to consider disposing-of the appeal on the basis of the sentence undergone.
10. In the opinion of this court, the present matter is a fit case for applying the mandate of the Supreme Court in *Sonadhar* (supra) since the appellant has served almost his entire sentence.
11. In view of the above, the present appeal is disposed-of upholding the judgement of conviction dated 14.05.2024; and modifying the sentence of the appellant to the period undergone *and* reducing the fine imposed from Rs. 25,000/- to Rs. 12,500/- to be paid within 04 weeks.
12. Accordingly, the appellant is directed to be released from custody *forthwith*, with the direction that he would pay the reduced fine of Rs.12,500/-, as directed above within 04 weeks from the date of his release.
13. Appellant is directed to place on record the proof of payment of fine within 01 week thereafter. The Registry is directed to re-list the matter if fine is not paid as directed.
14. The appeal is disposed-of in the above terms.
15. Pending applications, if any, also stand disposed-of.
16. Let a copy of this order be communicated to the concerned Jail Superintendent *forthwith*.



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17. In view of the above, the present applications are disposed-of as infructuous.

ANUP JAIRAM BHAMBHANI, J

DECEMBER 13, 2024

V.Rawat