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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 1142/2024**

MOHD. AFZAL

.....Petitioner

Through: Mr.Shri Singh (DHCLSC),
Mr.Gaganjyot Singh and Ms.Surabhi
Vaya, Advocates

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Ms.Priyanka Dalal, APP for the State
alongwith SI Amit Kumar, P.S.-
H.Nizamuddin

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

% **07.11.2024**

CRL.M.A. 27868/2024 (Exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

**CRL.REV.P. 1142/2024, CRL.M.A. 27867/2024 (Delay) &
CRL.M.(BAIL) 1550/2024 (suspension of sentence)**

1. The present petition under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 has been filed on behalf of the petitioner seeking the following reliefs:-

- “a) Call for the record from the court of Ms. LOVLEEN ASJ, - 03,South-East, Saket Courts, Delhi in Crl. Appeal No. 292/2023;
b) Set-aside the impugned judgment dated 13.12.2023 and by Ms. Lovleen, ASJ-03, South-East, Saket Courts, Delhi in Crl. Appeal No. 292/2023 and against judgment and order on sentence dated 27.03.2023 and 08.08.2023 passed by Ld. M.M. Akank.sha Garg, Saket Courts South –East District, Saket District Courts, New Delhi. in Cr.*



Case No. 1765/2021;

c) Acquit the Revisionist of all the charges framed against him;

d) Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice."

2. Vide judgment dated 27.03.2023, the learned MM had convicted the accused under Section 392 of the IPC and, vide order on sentence dated 08.08.2023, had sentenced the petitioner herein to undergo rigorous imprisonment for a period of 18 months and to pay a fine of Rs.10,000/- along with the compensation of a sum of Rs.20,000/- to the complainant. The appeal filed against the said orders was dismissed by the learned ASJ-03 Saket Courts, New Delhi vide judgement dated 13.12.2023 in Criminal Appeal no. 292/2023.

3. Learned counsel appearing on behalf of the petitioner submitted that there is no recovery of the stolen items. It is further submitted that the petitioner has already undergone around 14 months of custody out of 18 months including the earning remission. It is also submitted, on instructions that appellant does not wish to challenge the legality of the order of conviction, but a lenient view may be taken on the order on sentence. Learned counsel appearing on behalf of the petitioner has also submitted that the petitioner is a very poor person and is not able to pay the fine or compensation.

4. *Per contra*, learned APP for the State submitted that the offence committed by the petitioner is serious. It is submitted that the petitioner was caught red-handed while committing robbery. It is further submitted that the learned Trial Court has recorded the conviction after carefully appreciating the evidence and has awarded the appropriate sentence. Therefore, no



modification in the order of the sentence may be made.

5. The Trial Court Record has been requisitioned. Upon perusal of the Trial Court Record and the impugned judgment in the case, it is observed that PW-2 Rajender Singh has made a consistent corroborative statement. Learned MM, after carefully examining the material on record, recorded the conviction of the accused.

6. I consider that the judgment passed by the learned MM is reasoned and there is no ground to entertain the same. Hence, the order of conviction dated 27.03.2023 is upheld. However, in respect of the order on sentence, as per nominal roll on record, as on 30.08.2024, the petitioner had undergone 11 months and 8 days of sentence. Therefore, as of now, the petitioner has undergone around 14 months of sentence out of 18 months. The petitioner is around 32 years of age.

7. Thus, taking into account the facts and circumstances, the order on sentence 08.08.2023 is modified to the extent that the sentence is modified to the period already undergone and the fine is reduced to Rs.5,000/-, in default of payment, the petitioner shall undergo custody of 2 months. The compensation awarded may be recovered by the complainant in accordance with law.

8. With the aforesaid observations, the instant petition alongwith pending applications stand disposed of.

DINESH KUMAR SHARMA, J

NOVEMBER 7, 2024/Dy/smg