



2025:DHC:8763



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

% Date of Decision : 26.09.2025

+ **CRL.A. 881/2024**

SHER SINGH

.....Appellant

Through: Mr. Tushar Gupta, Advocate
(DHCLSC) with Mr. Sumit Kumar
Mishra and Mr. Lakhvinder Singh,
Advocates with appellant in person.

versus

STATE (NCT) OF DELHI

.....Respondent

Through: Ms.Shubhi Gupta, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal under Section 415(2) read with section 528 of B.N.S.S. 2023, assailing the judgment of conviction dated 12.04.2024 and the order on sentence dated 08.07.2024 passed by the Principal District & Sessions Judge (North-West), Rohini Courts, Delhi in SC No. 520/2019 arising out of FIR No. 694/2018 registered at P.S. Begumpur under Sections 392/397/411/34 IPC and Section 25/54/59 of the Arms Act, 1959. The charges were framed under sections 392/34 IPC.

Vide order on sentence the appellant Sher Singh was convicted for the offence punishable under Section 392/34 IPC and sentenced to undergo rigorous imprisonment for three years with a fine of ₹2,000/-, and in default of payment of fine, to further undergo simple imprisonment for three



months. The co-accused Mustafa was separately convicted under Sections 392/34 IPC, 397 IPC, and 25 of the Arms Act, and sentenced accordingly.

The sentence of the appellant Sher Singh was suspended during the pendency of the present appeal vide order dated 19.09.2024.

2. The case of the prosecution, in brief, is that on 22.12.2018 at about 9:30 p.m., the complainant/Himanshu was waylaid near Begumpur, by two assailants, namely Mustafa and Sher Singh. Mustafa pointed a pistol at the complainant's chest, while Sher Singh snatched his bag containing his Aadhaar Card, PAN Card, and ₹130/-. The complainant raised an alarm, whereupon PW5- ASI Rajesh, who was passing by, apprehended both accused with the assistance of the complainant. The pistol/katta, containing live cartridges, was recovered from Mustafa, while the bag and purse were recovered from Sher Singh. PW-8 Ms. Prema Lakra, Sr. Scientific Officer, proved the FSL report confirming that the pistol was a functional firearm and the cartridges were live ammunition. The rest of the witnesses were formal in nature and deposed about the various aspects of investigation.

In defence, statements of the appellants were recorded under section 313 IPC, wherein they alleged false implication and denied all the allegations.

3. Upon consideration of the testimonies and documentary evidence, the Trial Court found the depositions of PW-1 and PW-5 to be credible and trustworthy, noting that their versions remained consistent even under cross-examination. The recovery of the complainant's bag from Sher Singh, duly supported by seizure memos proved through the testimony of the police



officials, further corroborated the prosecution case. Consequently, the Trial Court rejected the defence plea of false implication and convicted Sher Singh and Mustafa under Section 392 read with Section 34 IPC.

4. Having perused the record, this Court finds no infirmity in the Trial Court's appreciation of evidence. The statements of PW-1 and PW-5 were natural, consistent and stood unimpeached in cross-examination. Their version was duly supported by the recoveries, scientific evidence and official witnesses. This Court concurs with and adopts the reasoning of the learned Trial Court and finds no ground to interfere with the conviction of the appellant Sher Singh.

5. At this stage, learned counsel for the appellant, on instructions, submits that the appellant is present in Court today and has been duly identified by the Investigating Officer. The appellant has also handed over his gate pass, which is taken on record. Having understood the consequences, the appellant does not wish to press the appeal on merits and confines his prayer to a modification of the sentence to the period already undergone. It is further submitted that the appellant is about 33 years of age, unmarried, and has one elder brother. It is also pointed out that the fine imposed by the Trial Court has already been deposited. Reliance is further placed on the decision in Sonadhar Vs. State of Chhattisgarh, reported as **2021 SCC OnLine SC 3682**.

6. Learned APP for the State, on instructions, submits that the appellant is not involved in any other criminal case.

7. The law regarding release of the appellant in cases where the convict



has undergone more than half of the sentence was laid down by the Supreme Court in Sonadhar (Supra) and the relevant portion of the same is extracted hereinunder:

“28. We thus issue the following directions:

- a) A similar exercise be undertaken by the High Court Legal Services Committee of different High Courts so that convicts represented by legal aid Advocates do not suffer due to delay in hearing of the appeals. NALSA will circulate this order to the concerned authority and monitor the exercise to be carried on.*
- b) The Delhi High Court Legal Services Committee would take up the cases of those convicts who have undergone more than half the sentence in case of fixed term sentences and examine the feasibility of filing bail applications before the High Court, while in case of ‘life sentence’ cases, such an exercise may be undertaken where eight years of actual custody has been undergone.*
- c) We are of the view that in fixed term sentence cases, an endeavor be made, at least as a pilot project, in these two High Courts to get in touch with the convicts and find out whether they are willing to accept their infractions and agree to disposal of the appeals on the basis of sentence undergone.*
- d) A similar exercise can be undertaken even in respect of ‘life sentence’ cases where the sentenced persons are entitled to remission of the remaining sentence i.e., whether they would still like to contest the appeals or the remission of sentence would be acceptable to such of the convicts.”*

8. As per the latest nominal roll on record dated 18.08.2025, the appellant has undergone custody of 2 years, 5 months and 18 days (including undertrial period), and has earned a remission of 6 days as on 16.08.2025, out of the substantive sentence of three years awarded to him. His jail conduct has been reported as satisfactory. The fine has been paid.

9. Having regard to the fact that the occurrence pertains to the year 2018, the appellant is not involved in any other case and his family circumstances and the fact that the sentence awarded to him was three years of which he has already undergone more than two and a half years including remission, this Court is of the opinion that no useful purpose would be served in requiring him to undergo the remaining sentence.



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10. Accordingly, while upholding the conviction of the appellant Sher Singh under Section 392/34 IPC, the substantive sentence awarded to him is modified to the period already undergone.

11. The present appeal stands partly allowed and is disposed of in the above terms. The bail bonds furnished by the appellant stand cancelled and the surety is discharged.

12. A copy of this order be communicated to the concerned Jail Superintendent as well as to the Trial Court.

MANOJ KUMAR OHRI
(JUDGE)

SEPTEMBER 26, 2025

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