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

+ CRL.A. 962/2024 and CRL.M.(BAIL) 1714/2024

MOHD. FAHIM

.....Appellant

Through: Mr. Arun Khatri, Advocate
(DHCLSC) with Ms. Shelly Dixit and
Mr. Sahil Khurana, Advocates

versus

THE STATE GOVT OF NCT DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Upendra Pandey

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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16.10.2025

CRL.M.A. 31168/2025 (Application seeking a direction for concurrent running of the sentences) in CRL.A. 962/2024

1. Learned counsel for the appellant submits that the appellant was convicted and sentenced in two separate cases arising out of FIR Nos.70/2018 and 68/2018, both registered at P.S. Shakarpur (East). While the appellant has undergone his entire substantive sentence of 7 years in relation to FIR No.68/2018, he is presently undergoing the substantive sentence of 7 years awarded to him in relation to FIR No.70/2018.

Pertinently, the subject appeal has been preferred by the appellant challenging his conviction in proceedings arising out of FIR No.70/2018.

2. By way of the present application filed under Section 467 BNSS read with Section 427 Cr.P.C., the appellant is seeking a direction to the tune that the substantive sentences imposed upon him in connection with FIR



Nos.68/2018 and 70/2018 at P.S. Shakarpur (East) be directed to run concurrently.

3. Learned APP for the State has handed over copies of both the concerned FIRs and the same are taken on record. Both FIRs relate to incidents dated 11.02.2018. The first FIR (No. 68/2018) records an occurrence at about 05:00 a.m., wherein the complainant *Avinash Sukla* was allegedly waylaid near Krishna Mandir Road, Shakarpur, and his purse and mobile phone snatched. The second FIR (No. 70/2018), from which the present appeal has arisen, records a further incident which occurred around 5:00 p.m. the same day near Vishwakarma Park, Geeta Colony, where the complainant *Deepak Kumar* was robbed at knife-point.

4. As stated above, the accused person is common in both cases, namely *Mohd. Fahim*, the applicant/appellant herein, and both cases were registered at P.S. Shakarpur (East) on the same date.

5. Vide judgment dated 04.12.2019 in proceedings arising out of FIR No. 68/2018, the appellant was convicted for offences under Sections 392/397/34 IPC and subsequently sentenced to rigorous imprisonment for a period of 7 years along with fine.

In the proceedings arising out of FIR No. 70/2018, by way of the impugned judgment dated 24.11.2023 and the impugned order on sentence dated 31.01.2024, the appellant was sentenced to RI for a period of 3 years alongwith fine of Rs.5,000/-, in default whereof he would undergo SI for 1 month, for the offence punishable under Section 392 IPC; and RI for a period of 7 years alongwith fine of Rs.10,000/-, in default whereof he would undergo SI for 1 month, for the offence punishable under Section 397 IPC.



6. Learned counsel for the appellant submits that both incidents arose on the same day within a span of a few hours, occurred within the same police-station jurisdiction, and involved the same accused. It is urged that the appellant should not be made to undergo consecutive sentences, and that the benefit of concurrent running of the same may be extended.

7. Learned APP for the State opposes the present application, contending that the two FIRs pertain to distinct incidents which do not form part of the same transaction.

8. Section 427 CrPC deals with sentencing for offenders already sentenced for another offence. It reads as follows:-

“427. Sentence on offender already sentenced for another offence.— (1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 122 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.

(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.”

As is evident from a reading of the provision, the normal rule is that the sentence resulting from the subsequent conviction would commence at the expiry of the first sentence. However, this rule is not absolute and the Court has the power to direct that the sentences run concurrently. Needless to state, this discretion has to be exercised judiciously and not mechanically.



Further, the power extends only to substantive sentences and not to default sentences. This power may be exercised by the Trial Court, Appellate Court or Revisional Court.

9. The principle governing concurrent running of sentences under Section 427 Cr.P.C. has been discussed in several decisions of the Supreme Court and High Courts. The Supreme Court in Mohd. Zahid Vs. State through NCB¹ fleshed out the principles governing Section 427 Cr.P.C. in the following manner:-

“Thus from the aforesaid decisions of this Court, the principles of law that emerge are as under:-

(i) If a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment, such subsequent term of imprisonment would normally commence at the expiration of the imprisonment to which he was previously sentenced;

(ii) Ordinarily the subsequent sentence would commence at the expiration of the first term of imprisonment unless the court directs the subsequent sentence to run concurrently with the previous sentence;

(iii) The general rule is that where there are different transactions, different crime numbers and cases have been decided by the different judgments, concurrent sentence cannot be awarded under Section 427 of Cr.P.C.;

(iv) Under Section 427 (1) of Cr.P.C. the court has the power and discretion to issue a direction that all the subsequent sentences run concurrently with the previous sentence, however discretion has to be exercised judiciously depending upon the nature of the offence or the offences committed and the facts in situation. However, there must be a specific direction or order by the court that the subsequent sentence to run concurrently with the previous sentence.”

10. The observations in Mohd. Zahid (supra) were reiterated by the Supreme Court in Iqram Vs. The State of Uttar Pradesh & Ors², wherein the

¹ decided in Criminal Appeal No. 1457/2021 on 07.12.2021

² decided on 16.12.2022 in Criminal Appeal No. 2319 of 2022



Court ordered sentences imposed in 9 Sessions Trials pertaining to the Electricity Act to run concurrently.

11. The benefit of concurrent running of sentences is however confined to substantive sentences and not to the sentence of fine or default sentences (Ref: Vicky @ Vikas Vs. State³; V.K. Bansal Vs. State of Haryana⁴; Benson Vs. State of Kerala⁵).

12. On a conspectus of facts, it is evident that both FIRs were registered on the same day, involved the same accused, arose from similar acts of robbery within the jurisdiction of the same police station, and were tried in close proximity of time. The similarity of time, place, and nature of offence indicates a common thread between the two occurrences. In view of the legal position settled in Mohd. Zahid (supra) and other decisions cited hereinabove, this Court is of the opinion that it is a fit case to exercise discretion in favour of concurrent running of sentences.

13. The applicant/appellant's latest nominal roll on record reflects that he has already undergone the entire substantive sentence of 7 years awarded in connection with FIR No. 68/2018 and is presently serving the substantive sentence of 7 years awarded by way of the impugned order on sentence in proceedings arising out of FIR No. 70/2018. Out of the said sentence, he has already undergone incarceration for a total period of about 1 year and 9 months. His conduct in custody has been reported to be satisfactory, and he is not found to be involved in any other case.

³ (2020) SCC OnLine SC 116

⁴ (2013) 7 SCC 211

⁵ (2016) 10 SCC 307



14. Accordingly, it is directed that the substantive sentences awarded to the appellant in connection with FIR No. 70/2018 and FIR No. 68/2018, P.S. Shakarpur, shall run concurrently.

15. The present application stands disposed of in the above terms.

CRL.A. 962/2024

1. The appellant has been produced through V.C. by Jail Warden *Kapil* from Central Jail No. 14, Mandoli Jail, Delhi.

2. In view of this Court having allowed the appellant's plea for concurrent running of sentences, the substantive sentence in relation to the present appeal also stands satisfied.

3. At this stage, learned counsel, on instructions from the appellant, submits that having undergone his entire substantive sentence, the appellant does not wish to press the present appeal on merits.

4. It may be noted that, as clarified by the Supreme Court in Vicky @ Vikas Vs. State (supra), V.K. Bansal Vs. State of Haryana (supra), and Benson Vs. State of Kerala (supra), the benefit of concurrent running of sentences extends only to substantive imprisonment and not to the sentence of fine or the default sentence.

5. On a perusal of the nominal roll, however, it appears that the appellant has completed his default sentence as well. The Jail Authorities are directed to carry out the requisite verification and, in case the appellant has completed the default sentence for non-payment of fine, he be released forthwith unless required in any other case.

6. The present appeal stands disposed of in the above terms, along with the pending application.

7. A copy of this order be communicated to the Trial Court, as well as to



the concerned Jail Superintendent for information and necessary compliance.

8. A copy of this order also be uploaded on the website forthwith.

MANOJ KUMAR OHRI, J

OCTOBER 16, 2025

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