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

+ CRL.A. 216/2017

BIJENDER KUMAR

.....Appellant

Through: Mr.Sanjay Kumar, Mr. Shiv Kumar,
Ms. Reema, Advs alongwith the
appellant

versus

THE STATE (NCT OF DELHI) & ANR.

.....Respondents

Through: Mr. Pradeep Gahalot, APP for State
with SI Randeep PS North Rohini

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

04.12.2025

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1. By way of present appeal, the appellant seeks to assail the judgement dated 03.02.2017 and order on sentence dated 10.02.2017 passed by ASJ, Rohini Courts, Delhi, in SC no. 57375/2016 arising out of FIR no. 157/2010 registered under Sections 395/397/412/120B IPC & 25/27 Arms Act, 1959 at P.S. North Rohini, Delhi.

2. Vide order on sentence, the appellant has been directed to undergo RI for a period of 3 years alongwith fine of Rs.1,000/- for the offence punishable under Section 392/34 IPC, in default thereof would further undergo SI for 6 months. The benefit of Section 428 Cr.P.C. has been provided to the appellant.

Vide order dated 17.07.2017, the sentence of the appellant was suspended during the pendency of the present appeal.



3. Briefly put, the case of the prosecution is that the complainant, who runs a factory of plastic granules at E-839, Narela Industrial Area and operates an office at 1007/21, Century Plaza, Sector-18, Rohini, used to receive and make payments from the said office. On 22.06.2010, at about 10:15 AM, he reached his office along with his nephew *Sonu Jain* in his car, carrying Rs.5,00,000/-. His employee *Naresh* was already present. At about 10:45AM, a customer, *Naresh Kumar*, arrived to collect payment. He was handed over Rs.1,80,000/- from a briefcase. The customer sat on the sofa and began counting the cash placed on the table. *Sonu Jain* started working on the computer; *Narender Jain* sat opposite the customer, and his employee sat on his right. Around 11:00AM, four boys entered the office. One of them pointed a revolver at the complainant and took out the money from his briefcase. Another held customer *Naresh Kumar* at knifepoint and took the cash from the table. The third boy closed the shutter and door of the office, while the fourth removed the complainant's gold chain and diamond ring. The assailants then tied him, his nephew, the employee, and the customer with tape and taped their mouths. The four boys thereafter took away approximately Rs.5,00,000/- alongwith the bag brought by *Sonu Jain* and threatened to kill them if they raised an alarm. They finally shut the office shutter from outside and fled. On recording the complainant's statement, the present FIR was registered.

4. In support of its case, the prosecution examined 25 witnesses. The material witness was the complainant, *Narender Jain*, who was examined as PW-1. *Sandeep*, nephew of the complainant who was present at the spot, was examined as PW-2. *Naresh Kumar*, the employee of PW-1, was examined as PW-3. *Naresh Kumar*, the customer who had come to collect



money from the office, was examined as PW-4. The remaining witnesses were formal in nature and deposed on various aspects of the investigation.

5. A perusal of the record indicates that the testimony of the complainant is cogent, consistent, and inspires confidence. His version stands duly corroborated by the testimonies of PW-2, PW-3, and PW-4. The appellant was correctly identified in Court by PW-1, PW-2, and PW-3. Further, the recovery of Rs.33,000/- from the almirah in the appellant's bedroom stands proved through the consistent depositions of PW-10, PW-12, and PW-21, and PW-1 also confirmed this recovery. His disclosure statement led to the recovery. It is further noted that the appellant jointly participated in the commission of the offence. The defence's plea of false implication has remained wholly unsubstantiated.

Having considered the material placed on record, this Court concurs with the findings of the trial court and finds no grounds to interfere with the same are made out. Consequently, the conviction of the appellant is upheld qua the offence under Sections 392/34 IPC.

6. At this stage, learned counsel for the appellant, on instruction from the appellant, who is present in court, is identified by the I.O., submits that he is remorseful and being fully aware of the consequences, does not wish to press the present appeal on merits. He accepts his guilt and prays that since the appellant having undergone more than half his sentence, be released on the period already undergone by him in custody.

7. Learned APP for the State has handed over a status report which is taken on record. As per which, the appellant was involved in 2 other cases, but have been acquitted in the same.



8. The nominal roll of the appellant 03.12.2025 is handed over today in the Court and the same is taken on record, which reflects that the appellant has undergone about 1 year and 7 months and that his conduct in jail has been noted as satisfactory.

9. 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 Vs. State of Chhattisgarh, reported as **2021 SCC OnLine SC 3683**, 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.”

10. The appellant is the sole breadwinner of his family, and bears the responsibility of his aged parents, wife, and two minor children. The matter has been pending since 2010, and the appellant has no other conviction or any pending involvement.



11. Keeping in view of the facts and circumstances noted hereinabove as well as decision in Sonadhar (Supra), the substantive sentence of the appellant in the present appeal is hereby modified to the period already undergone by him. The sentence on default of payment of fine alongwith the default sentence, however, is maintained. The appellant shall deposit the fine amount before the Trial Court within 2 weeks, failing which he shall undergo the default sentence.
12. Subject to deposit of fine amount, the personal bond furnished by the appellant stands cancelled and the sureties are discharged.
13. The present appeal is partly allowed and disposed of in the above terms.
14. A copy of this order be communicated to the concerned Jail Superintendent as well as to the Trial Court.

MANOJ KUMAR OHRI, J

DECEMBER 4, 2025

Pallavi