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

+ CRL.A. 308/2016

RAHUL @ NADEEM @ TAUSIFAppellant

Through: Appellant joined through V.C.

versus

STATE GOVT OF NCT OF DELHIRespondent

Through: Ms.Shubhi Gupta, APP for State with
Ms.Yusra, Advocate with
Insp.Abhishek

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

05.12.2025

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1. By way of the present appeal under Section 374 Cr.P.C., the appellant seeks to assail the judgment of conviction dated 21.01.2016 and the order on sentence of even date, passed by the learned ASJ-04 (Central), Tis Hazari Courts, Delhi, in Sessions Case No. 86/2014, arising out of FIR No. 80/2014, registered at P.S. I.P. Estate. By the impugned judgment, the appellant was convicted only for the offence punishable under Section 25 of the Arms Act.

2. Vide the impugned order on sentence, the appellant was directed to undergo Rigorous Imprisonment for 2 years and 6 months along with a fine of Rs.10,000/-, and in default of payment of fine, to undergo Simple Imprisonment for one month for the offence under Section 25 Arms Act. The benefit under Section 428 Cr.P.C. was extended to him. The order on sentence records that the fine amount stands deposited.



3. The sentence of the appellant was thereafter suspended by this Court vide order dated 09.05.2016, and the appellant was released on bail pursuant thereto.
4. Briefly stated, the case of the prosecution was that the deceased Waseem was shot dead near his residence. During investigation, three co-accused, Shadab, Saleem and Munni, were apprehended. On the basis of further secret information and at the pointing out of co-accused Saleem, the present appellant Rahul @ Nadeem @ Tausif was arrested from Seelampur on 07.03.2014, and a pistol, along with two empty cartridges alleged to be the weapon of offence, was recovered from the right pocket of his trousers. The ballistic report concluded that the cartridges recovered from the scene of crime had been fired through the pistol recovered from the appellant.
5. During trial, the prosecution examined 27 witnesses, including police witnesses associated with arrest, seizure, post-mortem proceedings, crime-team inspection, as well as the ballistic and serological experts. The two material public witnesses, PW8 and PW9, did not support the prosecution case with respect to identification of assailants. However, the prosecution relied upon the recovery of the pistol from the appellant, the FSL opinion linking the weapon to the fired cartridges, and the remaining scientific and seizure evidence.
6. The appellant, in his statement under Section 313 Cr.P.C., denied all allegations and claimed that he had been falsely implicated after being called to the police station on earlier dates. He did not lead any defence evidence.
7. Upon appreciation of the evidence, the learned Trial Court held that although the prosecution had failed to prove the charge of murder under



Section 302/34 IPC against any of the accused due to lack of reliable eyewitness testimony, the recovery of the pistol from the appellant stood proved beyond reasonable doubt. The ballistic expert's report established that the weapon recovered from the appellant was capable of discharging the bullets and that the empty cartridges recovered from the spot had been fired from the same weapon. Accordingly, the Trial Court convicted him under Section 25 of the Arms Act.

8. On a perusal of the record, this Court finds no perversity in the reasoning adopted by the Trial Court. The conviction of the appellant under Section 25 of the Arms Act is, accordingly, upheld.

9. Learned counsel for the appellant, who appears with the appellant present through VC, and is duly identified by the IO, submits that the appellant has already undergone more than half of the sentence awarded to him. He further states that the appellant does not wish to press the present appeal on merits, and confines his submissions to a request that the sentence be modified to the period already undergone.

10. Learned APP for the State submits that as per the status report on record, the appellant has prior involvements.

11. As per the status report, it is recorded that are the involvements are either prior in time, have resulted in acquittal, or have been compounded.

12. As per the nominal roll on record dated 31.08.2025, the appellant has undergone a sentence of about 1 year and 10 months. His nominal roll records that he has paid the fine, he has no other pending cases and his jail conduct is recorded as satisfactory.

13. The law with regard to 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 v. State of Chhattisgarh decided on 06.10.2021, in SLP (CRL)No. 529/2021 the relevant portion of the same is extracted hereinunder:

'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 endeavour 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.

Our aforesaid additional directions are based on a premise that at times if a convict has actually done of what he is accused of and he is remorseful, he may be willing to accept his acts and suffer a lesser sentence. We make it clear that the objective is not to compel or extract acceptance from such convicts depriving of the right of appeal.'

14. Having considered the material on record and the submissions addressed, this Court affirms the conviction of the appellant under Section 25 of the Arms Act. However, for the purpose of sentence, it is noted that the appellant comes from an economically vulnerable background and is the sole earning member of his family. As recorded earlier, the appellant has two minor daughters, a younger brother and a widowed mother who are dependent upon him. The Nominal Roll reflects that the appellant has undergone more than one year and ten months of custody including undertrial period, his jail conduct has been satisfactory, and the fine amount stands deposited. Taking into account his familial responsibilities, socio-



economic condition, , and the period of custody already undergone, this Court is of the considered view that the ends of justice would be met by modifying the substantive sentence to the period already undergone.

15. Consequently, while the conviction of the appellant for the offence under Section 25 of the Arms Act is upheld, the substantive sentence imposed upon him is modified to the period already undergone.

16. The appeal is partly allowed and disposed of in the above terms. All pending applications, if any, also stand disposed of.

17. The bail bonds furnished by the appellant stand cancelled and his sureties discharged.

18. Let a copy of this judgment be transmitted to the learned Trial Court and to the Superintendent, Central Jail No. 8/9, Tihar, for information and compliance.

MANOJ KUMAR OHRI, J

DECEMBER 5, 2025

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