

(2025) 08 DEL CK 0732

In the Delhi High Court

Case No : Criminal Appeal No. 1163 Of 2024, Criminal Miscellaneous
Application(Bail) No. 2104 Of 2024

Imran @ Anshu

APPELLANT

Vs

State Govt. Of Nct Of Delhi

RESPONDENT

Date of Decision : 14-08-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 313, 428
Indian Penal Code, 1860 — Section 34, 392, 397, 411

Citation : (2025) 08 DEL CK 0732

Hon'ble Judges : Manoj Kumar Ohri, J

Bench : Single Bench

Advocate : Biswajit Kumar Patra, Khushboo Gupta, Pradeep Gahalot

Final Decision : Partly Allowed

Judgement

Manoj Kumar Ohri, J

1. By way of the present appeal, the appellant seeks to assail the judgment of conviction dated 21.12.2023 and order on sentence dated 01.08.2024, passed by the Additional Sessions Judge, New Delhi, Patiala House Courts in the case arising out of FIR No. 79/2019 registered under Sections 392/397/411/34 IPC at P.S. Mansarovar Park, Delhi.

Vide the impugned judgment, the appellant was convicted for the offence under section 392 IPC and sentenced to undergo rigorous imprisonment for a period of 5 years along with payment of fine of Rs.20,000/-, in default of payment of fine, he was directed further to undergo simple imprisonment for a period of 06 months. The benefit of Section 428 Cr.P.C. was provided to the appellant, and all sentences were directed to run concurrently.

2. Briefly stated, facts of the present case are that on 10.03.2019, the complainant (PW-1) was going to his house from Jwala Nagar and at about 5. 30 pm when he was near Lal Bagh Jhuggis, at that time, two boys came there.

While one boy (CCL) took out a knife and put the same on the neck of the complainant, the other boy (the appellant herein) caught hold of his hand and took out complainant's mobile phone from the right pocket of his pants. Thereafter, both the boys tried to flee away from the spot however, they were apprehended with the help of two police officials who were on patrolling duty at the relevant time. On search of the CCL, the said knife was recovered, and the mobile phone of the complainant was recovered from the possession of the appellant. Thereafter, based on the statement of the complainant, the present FIR was registered.

3. The Trial Court framed charges vide order dated 06.06.2019 under section 392/397/34/411 IPC against the appellant, to which he pleaded not guilty and claimed trial.

4. In trial, a total of 08 witnesses were cited by the prosecution to prove its case. The complainant was examined as PW1. The police officers who apprehended the appellant, namely Ct. Vipin Kumar and Ct. Rahul were examined as PW-2 & PW-3 respectively. The other witnesses were formal in nature, who deposed relating to various aspects of the investigation. On the other hand, the appellant, in his statement recorded under Section 313 Cr.P.C. claimed innocence and false implication.

5. Notably, a perusal of the impugned judgment and the record available shows that the testimony of PW-1/complainant is consistent with his statement (Ex.PW1/A), based on which the present FIR has been registered. The case of the prosecution is further corroborated by the testimony of PW2 and PW3, as they have apprehended the appellant from the spot and further, the recovery of the robbed mobile phone from the appellant indicates involvement in the present case. Per Contra, in defence, the accused did not examine any witness to falsify the testimony of the prosecution witnesses against him and further failed to provide any cogent explanation to the incriminating circumstances appearing against him i.e., recovery of the stolen phone from his possession and his presence at the spot.

6. At this stage, learned counsel for the appellant, on instructions from the appellant, who appeared through VC along with Jail Warden Mr. Durgesh, Central Jail No.11, Mandoli Jail, submits that the appellant does not wish to press his appeal on merits and prays instead that his sentence be modified to the period already undergone. It is further stated that the offence pertains to the year 2019 and the appellant has already undergone half of the sentence imposed upon him. It is next contended that the appellant's jail conduct during his incarceration was satisfactory as per the nominal roll. On merits, it is argued that there are improvements and inconsistencies in the statement of the complainant and the testimony before the court, thereby raising doubts on the case of the prosecution. It is stated that the appellant is 30 years of age and the alleged mobile phone was recovered and complainant suffered no loss. He is stated to be the sole bread earner for his family, the father of the appellant passed away in

the year 2019, the brother of the appellant is suffering from Tuberculosis, and his mother is an elderly lady and cannot sustain herself independently.

7. Learned APP for the State, submits that the appellant is found involved in other cases, and the nominal roll of the appellant also reflects the same. At this stage, learned counsel for the appellant, on instructions, states that except one, in all other cases the appellant is on bail. Further, all the cases are pending trial.

8. It is noted that, as per the Nominal Roll dated 11.02.2025, by now the appellant has undergone more than half of the sentence imposed upon him. The appellant is found to be involved in other FIRs which are pending trial and has not been convicted in any of them. The appellant has faced trial in the present proceedings for the last 05 years. His overall jail conduct is reported to be satisfactory.

9. Considering the aforesaid, the appellant's conviction is upheld, and the sentence of the appellant is modified to the extent that the appellant is directed to be released on the period already undergone by him in custody. The sentence of fine however, shall remain as it is.

10. The appeal is partly allowed and disposed of in the above terms.

11. A copy of this order be communicated to the concerned Jail Superintendent as well as the trial court.