

SC No. 979/2023
FIR No. 541/2021
u/s 393/394/398 IPC
PS: Gandhi Nagar
State vs. Manish Kashyap

ORDER ON SENTENCE

- 1) Vide judgment dated 02.05.2026, Manish Kashyap has been convicted for offences under Section 393/394/398 IPC for attempting to commit robbery in order to snatch mobile phone of the complainant and on his resistance caused three incised injuries with a blade being a sharp object which can cause fatal injuries and comes within the purview of deadly weapon.
- 2) I have heard counsel for convict, convict in person and Addl. PP for State on the point of sentence and gone through the record. Convict also moved an application u/s 401 BNSS read with Section 360 Cr.P.C. and under Section 4 of Probation of Offenders Act for release on probation.
- 3) The content of this application shows that except changing the title of this application, all other contents mainly remained unchanged which relates to some another case of accused Jagdesh and even copying paste was done without going through the application. However, I am ignoring these aspects.
- 4) As per record, convict remained in custody for more than 2 years from 20.11.2021 to 07.12.2023 during investigation

and trial. SHO report shows that total six cases including present one were registered against the convict. In one case under Section 356/379/34 IPC bearing FIR No. 416/2018 of E-Police Station, District Crime he has been recently acquitted on 9-3-2026 whereas one case under Section 394/411/34 IPC bearing FIR No. 5/2020 of PS Gandhi Nagar is still pending against him. In three cases of PS Gandhi Nagar, he was released and those cases were closed being untraced. Counsel for accused informed that even in case vide FIR no. 5/2020, convict has not been identified by the complainant of that case during trial in his deposition.

- 5) The record shows that he is aged about 28 years at present and doing labour work. He stated that he is living with his old grand mother and his parents have already expired. He is maintaining his grand mother with very difficulty and after him, no one be able to take care of her. Convict pleaded for lenient view and requested for release on undergone period or on probation.
- 6) Section 393 IPC prescribed punishment of rigorous imprisonment for a term which may extend to seven years and convict shall also be liable for fine. Section 394 IPC says that if any hurt is caused while committing the robbery, then the convict shall be punished with imprisonment for life or with rigorous imprisonment for a term which may extend to 10 years and convict is also liable to pay fine. Under Section 398 IPC, the convict cannot be sentenced less than seven years imprisonment.

- 7) Counsel for accused relied upon decisions of Hon'ble Delhi High Court in cases **Rahul @ Shiv vs. State Crl. A. no. 421/2018 decided on 29.08.2025** and **Ajay Kumar vs. State Crl. A. no. 549/2007 decided on 04.07.2025** and argued that court has power even to release convict on probation where even there is minimum punishment prescribed. In these two cases, Hon'ble High Court released the accused on probation even they were convicted under Section 397 IPC wherein minimum punishment is seven years of imprisonment.
- 8) Keeping in view the above facts and circumstances, no previous conviction of convict in any case till date, his period of custody of more than 2 years, his young age of 28 years at present, regular appearance in court after release from custody, suffering of three incised wounds by the complainant caused by blade which ultimately were found simple in nature, convict is maintaining his old grandmother who will come on road if convict is sent to jail now etc. as well as by giving a chance to him to reform himself, he is ordered to be released on probation for a period of two years on furnishing bond of Rs. 20,000/- with one surety of like amount and during this period he will keep peace and good behaviour. He shall be kept under supervision of Probation Officer for this period and will mark his attendance in police station after every 15 days. He will not change his address without prior permission of the court. He shall also pay compensation of Rs. 10,000/- to the injured complainant u/s 5 (a) of Probation of Offenders Act. Probation Officer shall

quarterly report of convict to this court regularly. Convict is given time to furnish bond as mentioned above and deposit compensation amount by next date of hearing.

- 9) In case convict fails to furnish the bond and to deposit the compensation or in case it is found that he had violated any of the above term or found involved in any other criminal case, then the benefit of probation given above shall be treated as revoked and he will undergo the rigorous imprisonment of 05 years under Section 393 IPC and shall pay fine of Rs. 5,000/-, in default simple imprisonment of 03 months. He will also undergo rigorous imprisonment for a period of 05 years and to pay fine of Rs. 5,000/- under Section 394 IPC and in case of non payment of the this fine, he shall further undergo simple imprisonment of 03 months. He shall also undergo rigorous imprisonment of period of 07 years u/s 398 IPC. All the above sentences will run concurrently and the convict will get the benefit under Section 428 Cr.P.C. of the period of custody during investigation and trial from 20.11.2021 to 07.12.2023. Copy of the judgment and this order on sentence be given to the convict free of cost and file be consigned to record room.

(Ashwani Kumar Sarpal)
Principal District & Sessions Judge
East District, KKD Delhi/11.05.2026..