

IN THE COURT OF SH BALWINDER SINGH
ADDL. SESSIONS JUDGE (FTC), NORTH-EAST
KARKARDOOMA COURTS: DELHI

IN RE:

SC 388/2018
CNR No. DLNE010050152018
STATE Vs. MD ARIF @ SANU
FIR No. 463/2018
PS Bhajan Pura



STATE VERSUS MD ARIF @ SANU

Date of Committal	:	30.11.2018
Date of Judgment of Conviction	:	27.03.2026
Date of Arguments on Point of Sentence	:	09.06.2026
Date of Order on Sentence	:	09.06.2026

ORDER ON SENTENCE

Present: Ms. Parul Singh, Ld. Addl. PP for the State.
Both the convicts are produced from JC (convict Arif @ Sanu Jail No. 14 and convict Sameer Khan Jail No. 13, Mandoli Jail).
Complainant/victim Sh. Dharam Singh is also present through VC.
Sh. Ahmad Ali Haidri, Ld. counsel for both the convicts in person and Ld. proxy counsel Sh. Ravi on behalf of main counsel Sh. Muneesh Kumar Shukla, Ld. counsel for both the convicts through VC.

1. Vide the judgment dated 27.03.2026 both the convicts Arif @ Sanu and Sameer Khan were convicted for committing the

offence punishable u/s 393/398/34 IPC and u/sec. 25 Arms Act.

2. The previous conviction reports of both the convicts have also been already filed by SHO PS Bhajnapura. The victim impact report is also accordingly filed.

3. As per the previous conviction reports of the convicts, both the convicts have no past conviction record. However, convict Arif @ Sanu was found to be involved in six other criminal case FIRs out of which one already stands compounded and in all other case FIR, he was already released during the course of investigation itself for want of incriminating evidence.

4. The perusal of victim impact report also reveals that though no physical harm was sustained by the complainant/victim Sh. Dharam Singh during the incident in question, however, the occurrence of the incident has caused him serious mental agony and trauma.

5. I have already heard both the sides on the point of quantum of sentence as well as grant of compensation.

6. While making submissions on behalf of convicts on the point of sentence and praying for the imposition of the minimum sentence as provided by law, it is submitted by Ld. counsels for both the convicts that the convicts are persons of young age and have no past conviction record.

7. It is also submitted by the Ld. counsel for the convicts that the convicts are the sole bread earner of their family. Further, convict Sameer Khan is also already married and has a wife and two minor children aged about 5 and 1 years respectively. Likewise, both the convicts also have the responsibility of their old age parents. Moreover, the convict Arif has already lost his father and as such his old mother who is also suffering from various age related ailments is also completely dependent upon him. It is argued that the families of the convict are totally reliable upon the convicts for their survival and all other basic needs. It is stated that the convict Sameer Khan currently works as a scrap dealer and earns a meager salary of Rs. 22,000-23,000/-. Likewise, convict Arif @ Sanu works as a delivery boy with online merchandise such as Flipkart, etc and earns a meager salary of 13,000-14,000/- per month. It is also stated that the convict Arif @ Sanu has no other male member in his family to look after his children and wife as well as his old age mother who is also a patient of TB. It is stated that likewise, the family of convict Sameer Khan also requires the company of convict for their well being. It is stated that in view of the current family position of the convicts, they deserves a lenient view from the court as otherwise the entire family of the convicts would stare towards destitution.

8. It is also submitted by the Ld. Counsel for the convicts that the convicts are also persons of young age and also at the time of incident in question, they were only 20 years of age and as such were not of enough maturity to understand the consequence of their acts. It is stated that considering their young age, the

reformatory approach may be taken against the convicts so as to enable them to contribute back to the society as a responsible members. It is also stated that, moreover, both the convicts have also not been convicted in any other case as also apparent from their previous conviction report filed by the SHO concerned.

9. Hence, it is prayed that a lenient approach may be adopted by the court while sentencing the convicts and the minimum awardable punishment may be awarded to the convicts.

10. Per contra, it is submitted by the Ld. Addl. PP for the State that in the present case, both the convicts have been convicted for the commission of offences u/s 393/398/34 IPC and u/sec. 25 Arms Act which are extremely grave in nature. Further, the convicts had also used dangerous weapon i.e. knife and country made pistol during the commission of the incident in question.

11. It is argued that in view of the gravity and seriousness of the offences committed by both the convicts, it is necessary that no leniency is shown to any of the convict in order to establish a strong deterrent and to set an example in the society so as to prevent the other anti social elements from committing any such offence with anyone.

12. It is relevant to note here that the victim/complainant Sh. Dharam Singh who is attending the court through VC has also stated that both the convicts in the present case may be punished for the commission of offences in question as per the punishment provided by law and no leniency may be shown to them for the

wrong committed by the convicts.

13. This court has carefully considered the submissions made by both the sides and has also carefully perused the record of the present case.

14. It is relevant to note here that in the case of “***Shailesh Jasvantbhai v. State of Gujarat***”, 2006(1) R.C.R. (Criminal) 704, the following observations were made by the Hon’ble Apex Court:

*“10. After giving due consideration to the facts and circumstances of each case, for deciding just and appropriate sentence to be awarded for an offence, the aggravating and mitigating factors and circumstances in which a crime has been committed are to be delicately balanced on the basis of really relevant circumstances in a dispassionate manner by the Court. Such act of balancing is indeed a difficult task. It has been very aptly indicated in **Dennis Councle MCG Dautha v. State of California**, (402 US 183 : 28 L.D. 2d 711) that no formula of a foolproof nature is possible that would provide a reasonable criterion in determining a just and appropriate punishment in the infinite variety of circumstances that may affect the gravity of the crime. In the absence of any foolproof formula which may provide any basis for reasonable criteria to correctly assess various circumstances germane to the consideration of gravity of crime, the discretionary judgment in the facts of each case, is the only way in which such judgment may be equitably distinguished.”*

*“11. In **Dhananjoy Chatterjee v. State of W.B.**, 1994(3) RCR(Cr.) 359 (SC) : (1994 (2) SCC 220), this Court has observed that shockingly large number of criminals go unpunished thereby increasingly, encouraging the criminal and in the ultimate making justice suffer by weakening the system's creditability. The imposition of appropriate punishment is the manner in which the Court responds to the society's cry for justice against the criminal. Justice demands that Courts should impose*

punishment befitting the crime so that the Courts reflect public abhorrence of the crime. The Court must not only keep in view the rights of the criminal but also the rights of the victim of the crime and the society at large while considering the imposition of appropriate punishment.”

15. On the issue of quantum of sentence, recently, the Hon’ble Supreme Court in the case of “***Surinder Singh v. The Union Territory of Chandigarh***”, Criminal Appeal No. 2373 of 2010 decided on 26.11.2021, has held that:

“32. The equality of ratio between two sets of variables is now well known as the doctrine of proportionality. The bedrock of sentencing policy in our criminal justice system is also based on the axiom of proportionality. This principle of commensurate sentencing treats offenders as agents capable of evaluating their own illegal conduct and the social censure associated with it, which is communicated to them by imposing a proportionate sentence. The exercise for assessing ‘proportionality’ is thus dependent upon the gravity of the offence which is determined according to (a) mischief caused or risk involved in the offence; (b) the overall conduct of the offender and; (c) motives ascribed to the felon. Further, the equality of treatment so as to eliminate discriminatory practices in the award of sentencing, is integral to the canons of proportionality. Needless to say, the guarantee of evenhandedness before the law(s), as enshrined in Article 14 of our Constitution, encompasses the administration of criminal justice system as well.

33. Having said that, we cannot be incognizant of the fact that there are practical difficulties in achieving absolute consistency in regards to sentencing. It must be candidly acknowledged that there is an element of discretion present while adjudicating the issue of sentence, however, the same cannot be exercised in an unprincipled manner. This Court has explicitly ruled out the practice of awarding disproportionate sentences, especially those that showcase undue leniency, for it would undermine the public confidence in efficacy of law.

34. The sentencing policy, therefore, keeps pace with

changing time. Undoubtedly, the primary emphasis while deciding the quantum of sentence should lie on the gravity or penal value of the offense. However, other guiding elements of rehabilitative justice model, including, appreciation of grounds for mitigation of sentence also deserve to be duly considered within the permissible limits of judicial discretion. The awarding of just and proportionate sentence remains the solemn duty of the Courts and they should not be swayed by non-relevant factors while deciding the quantum of sentence. Naturally, what factors should be considered as 'relevant' or 'non-relevant' will depend on the facts and circumstances of each case, and no straight jacket formula can be laid down for the same.”

16. Now coming to the instant case, both the convicts have been found guilty for the commission of offence of attempt to commit robbery with the complainant Dharam Singh when on the day of incident he was going on his motorcycle to deliver some article. Further, during the incident, both the convicts were also armed with a knife and pistol and also used the same against the complainant in order to succeed in their design. However, upon the reaching of two police officials at the spot, they could not succeed in their intentions and were apprehended on the spot alongwith their weapons.

17. Further, from the manner in which both the convicts were acting at the time of the incident itself reveals the criminal bent of mind of the convicts and also that they were actively engaged in such similar activities else they would not have been in possession of a knife and pistol.

18. Though, while praying for leniency to both the convicts, their young age and present family status has been argued as one

of the ground for seeking imposition of least/minimum awardable punishment, however, the same cannot be a sole ground to take a lenient view against the convicts when despite such status of their families, they did not restrain themselves from indulging into such activities.

19. Accordingly, considering the seriousness of the offences committed by the convicts and totality of all the facts and circumstances of the case, the court is of the view that the ends of justice would meet if convict Arif @ Sanu and Sameer Khan are sentenced as follows :

(i) For the commission of offence punishable under Section 393/34 IPC, both the convicts are sentenced to undergo rigorous imprisonment for a period of 05 (five) years and a fine of Rs.10,000/- (Rupees Ten thousand only). In default of payment of fine, the convicts shall undergo SI for six (06) months.

(ii) For the commission of offence punishable under Section 398 IPC, both the convict Arif @ Sanu and Sameer Khan are sentenced to undergo rigorous imprisonment for a period of 07 (seven) years.

(iii) For the commission of offence punishable under Section 25 Arms Act, both the convicts Arif @ Sanu and Sameer Khan are sentenced to undergo rigorous imprisonment for a period of 02 (two) years and a fine of Rs. 5,000/-(five thousand only). In default of payment of

fine, the convicts shall undergo SI for three (03) months.

20. It is further directed that the aforesaid fine imposed on the convicts be paid to the victim/complainant by way of compensation, upon being deposited by the convicts.

21. All the sentences imposed upon the convicts shall run concurrently.

22. The convicts shall also be entitled to benefit of Section 428 Cr.P.C./468 BNSS.

23. Fine be deposited by the convicts within one month failing which the convicts shall undergo the default sentence already awarded in preceding Para 19 of this order.

24. Since the Ld. Addl. PP for the State has not disclosed the expenses incurred by the State on the prosecution of case, the same shall be borne by the State.

25. Fine not paid by the convicts.

26. A copy of the Judgment and order on sentence be sent to the concerned District Magistrate through the IO/SHO concerned for information and office records.

27. A copy of this order be also sent to Jail Superintendent who is also directed to treat the present Order on Sentence as

warrant of commitment and to carry out the aforesaid sentence awarded to the convicts into execution as per law.

28. The convicts have also been informed of their right to prefer an appeal against this Judgment and order on sentence. They have also been apprised that if they can not engage an advocate, they can approach Legal Aid Cell, functioning in Tihar Jail or write to the Secretary, Delhi High Court, Legal Services Committee, Room No. 34-37, Lawyers Chamber Block, High Court of Delhi, New Delhi.

29. Coy of the order be also give to both the convicts free of cost.

30. File be consigned to the Record Room after due compliance, as per rules.

**Announced in the open
Court on 09.06.2026**

**(BALWINDER SINGH)
ASJ (FTC)/North-
East/KKD Courts/
Delhi/09.06.2026**