

IN THE COURT OF MS. VANDANA:
ADDL. SESSIONS JUDGE-02(NORTH):
ROHINI DISTRICT COURTS : DELHI

In the matter of:-

(Sessions Case No. 470/2025)

FIR No.	315/2025
Police Station	Bawana
Charge framed Under Section	309(4)/311/317(2)/ 3(5)BNS
Convicted Under Section	317(2) BNS

State V/s

Kalam

S/o Mr.Azad

R/o B-2026, JJ Colony,

Bawana, Delhi.

..... Convict.

19.03.2026

ORDER ON SENTENCE

1. Accused **Kalam** is convicted for the offence punishable Section U/s **317(2) BNS** vide judgment dated 18.03.2026. I have heard arguments on the point of sentence advanced by Dr. Sarita Rani, Ld. Addl. PP on behalf of the State and at Bar by Sh. Mayank Chauhan, Ld. counsel for the convict.

2. The learned Addl. PP has very vehemently argued that convict had committed the offence which is of grave nature. It is submitted that in view of the serious nature of offence, the convict does not deserve any leniency.

3. Per contra, the learned counsel for the convict has submitted that the convict was on bail in this case in the fag end of the trial. It has further argued that convict belongs to poor strata of society and has sole bread earner of his family. It has further argued that convict has wife and three minor children to look after. It has further argued that convict be sentenced to the period already undergone by him as he has every chance to improve as a person and join the social fabric, hence, it is prayed that a lenient view be taken.

4. I have given my thoughtful consideration to the arguments advanced by the Ld. Addl. PP for the State and Ld. Counsel for the convict, considered the submissions made by the convict, and have also considered the facts and circumstances of the case in totality.

5. Before embarking upon the discussion on the sentencing policy prevalent in our Criminal Justice System need to be recapitulated. This Court is conscious that :-

“.....The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a corner-stone of the edifice of "order"”

should meet the challenges confronting the society. Friedman in his "Law in Changing Society" stated that, "State of criminal law continues to be - as it should be - a decisive reflection of social consciousness of society". Therefore, in operating the sentencing system, law should adopt the corrective machinery or the deterrence based on factual matrix. By deft modulation sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.

Therefore, undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed etc. This position was illuminatingly stated by the Hon'ble Supreme Court in Sevaka Perumal etc. v. State of Tamil Nadu (1991 (3) SCC 471).

The criminal law adheres in general to the principle of proportionality in prescribing liability according to the culpability of each kind of criminal conduct. It ordinarily allows some significant discretion to the Judge in arriving at a sentence in each case, presumably to permit sentences that reflect more subtle considerations of culpability that are raised by the special facts of each case. Judges in essence affirm that punishment ought always to fit the crime; yet in practice sentences are determined largely by other considerations. Sometimes it is the correctional needs of the perpetrator that are offered to justify a sentence. Sometimes the desirability of keeping him out of circulation, and sometimes even the tragic results of his crime. Inevitably these considerations cause a departure from just desert as the basis of punishment and create cases of

apparent injustice that are serious and widespread.

Proportion between crime and punishment is a goal respected in principle, and in spite of errant notions, it remains a strong influence in the determination of sentences. The practice of punishing all serious crimes with equal severity is now unknown in civilized societies, but such a radical departure from the principle of proportionality has disappeared from the law only in recent times. Even now for a single grave infraction drastic sentences are imposed. Anything less than a penalty of greatest severity for any serious crime is thought then to be a measure of toleration that is unwarranted and unwise. But in fact, quite apart from those considerations that make punishment unjustifiable when it is out of proportion to the crime, uniformly disproportionate punishment has some very undesirable practical consequences.”

6. Reliance is placed upon **Shailesh Jasvantbhai & Anr vs State Of Gujarat & Ors Appeal (Crl.) 118 of 2006 DOD** by Supreme Court, 19 January, 2006.

7. The convict, in the present case has been held guilty U/s 317(2) BNS. Even, in the instant case, the convict has **been acquitted** under Section 311/309(4)/3(5) BNS.

8. Keeping in view all the aggravating and mitigating circumstances and the discussion above, the **convict Kalam is sentenced for the period already undergone by him i.e. 09 months for the offence under Section 317(2) BNS.**

9. Copy of the Judgment and Order on Sentence be supplied to the convict free of cost against receipt. Convict is

informed of his right to prefer an appeal against this judgment and Order on Sentence. He has been apprised that if he cannot afford to engage an Advocate, he can approach the Legal Aid Cell, Tihar Jail or write to Secretary, Delhi High Court, Legal Services Committee, 34-37, Lawyer Chamber Block, High Court of Delhi.

10. File be consigned to the Record Room after due compliance.

**Announced in the open court
today i.e. 19.03.2026
(running into 05 pages)**

**(VANDANA)
ASJ-02 /North District
Rohini Courts/Delhi/19.03.2026**