

SC No.	58/2023
State Vs.	Jakhir and anr.
FIR No.	156/2019
P.S.	Seema Puri
u/s	393/394/174A/34 IPC

19.08.2023

Present: Sh. Parmod Kumar, Ld. Addl. PP for State.

Accused Jakhir present on bail.

Accused Salman produced from JC.

IO/SI Rajeshwar (retired) is present.

Today, this matter is fixed for PE qua accused Jakhir and for arguments on the point of sentence qua accused Salman.

PWs Amiruddin and Amir not present despite service. Issue fresh summons to both these PWs through SHO concerned for NDOH.

Notice be issued afresh to IO for NDOH.

At this stage, convict Salman seeks a counsel from DLSA.

In view of the above, Adv. Udaiveer Singh, is hereby appointed as LAC for convict Salman in the present case.

Ms. Poonam Mishra, Ld. Proxy counsel has appeared on behalf of LAC Sh. Udaiveer Singh for convict Salman and she has sought adjournment as Ld. LAC presently is not in the court premises.

Also, Ld. Addl. PP for the State has sought adjournment for filing affidavit w.r.t. litigation expenses incurred by the State.

Put up this matter for PE qua accused Jakhir on 21.11.2023 and for arguments on the point of sentence qua convict Salman on 21.08.2023.

(Vineet Kumar)
ASJ-02/E-Court/Shahdara
KKD/Delhi/19.08.2023

**IN THE COURT OF SH. VINEET KUMAR:
ADDITIONAL SESSIONS JUDGE; E COURT: SHAHDARA:
KARKARDOOMA COURT: DELHI.**

Unique Case ID No. 152/2020

FIR No. 60/2020

U/S: 392/397/411/34 IPC & 25/27 Arms Act.

P.S: Anand Vihar

State	Versus	Salman
		S/o Usman
		R/o House No. 1/271, Gali no.3,
		Ram Nagar, Shahdara, Delhi.

ORDER ON SENTENCE

1. Arguments have been heard on the point of quantum of sentence from Sh. Rakesh Kumar, learned Addl. PP on behalf of the State and from Sh. Sidharth Joshi, Ld. Counsel for convict. It has been submitted by the Ld. Defence Counsel that convict is aged about 30 years and has a family to support including his wife and old aged mother. Ld. Counsel for convict further argued that convict Salman is not a previous convict and he has been in Judicial Custody for more than two years and thus prays that lenient view may be taken against him in the light of overall circumstances.
2. The learned Additional PP for State argued that a country made pistol which was used in the commission of offence was recovered from the possession of convict and he has pleaded guilty for the offence under Section 25 Arms Act. Ld. Addl. PP further argued that convict be awarded maximum punishment. An affidavit has been filed on behalf

of State for expenses incurred on prosecution to the tune of Rs.7,410/- (approx.)

3. Hon'ble Full Bench of High Court of Delhi in **Karan Vs. State NCT of Delhi, Crl. A. 352/2020** has passed following directions to conduct summary enquiry by Delhi State Legal Services Authority (DSLISA) and to file victim impact report containing their recommendations.

*“173. After the conviction of the accused, the Trial Court shall direct the accused to file the affidavit of his assets and income in the format of **Annexure-A** within 10 days.*

174. After the conviction of the accused, the Court shall also direct the State to disclose the expenses incurred on prosecution on affidavit alongwith the supporting documents within 30 days.

*175. Upon receipt of the affidavit of the accused, the Trial Court shall immediately send the copy of the judgment and the affidavit of the accused in the format of **Annexure-A** and the documents filed with the affidavit to DSLISA.*

*176. Upon receipt of the judgment and the affidavit of the accused, DSLISA shall conduct a summary inquiry to compute the loss suffered by the victims and the paying capacity of the accused and shall submit the **Victim Impact Report** containing their recommendations to the Court within 30 days.*

Delhi State Legal Services Authority shall seek the necessary assistance in conducting the inquiry from SDM concerned, SHO concerned and/or prosecution who shall provide the necessary assistance upon being requested.

*177. The Trial Court shall thereafter consider the **Victim Impact Report** of the DSLSA with respect to the impact of crime on the victims, paying capacity of the accused and expenditure incurred on the prosecution; and after hearing the parties including the victims of crime, the Court shall award the compensation to the victim(s) and cost of prosecution to the State, if the accused has the capacity to pay the same. The Court shall direct the accused to deposit the compensation with DSLSA whereupon DSLSA shall disburse the amount to the victims according to their Scheme.”*

4. It is worth mentioning that convict Salman has been held guilty for offence punishable under Section 25 Arms Act. In the present case, convict Salman was found in possession of a country made pistol on the point of which, he allegedly robbed the complainant, however, he has been acquitted of the charges of robbery under Section 392/397 IPC as the complainant did not support the prosecution version. Further, the complainant compounded the offence under Section 411 IPC and also the recovered mobile phone was released to him on furnishing indemnity bond. Also, the convict Salman had pleaded guilty for the offence under

Section 25 Arms Act. Thus, in the facts and circumstances of the present case, the undersigned is of the considered view that compliance of Karan Vs. State (supra) can be dispensed with.

5. Now, advertent to the aspect of sentencing. Upon considering the mitigating as well as the aggravating factors brought forth by the Ld. Counsel for the convict and the Ld. Addl. For State, convict Salman is sentenced to undergo Rigorous Imprisonment for a period of 2 years and fine of Rs.5000/- for the offence under section 25 Arms Act and in default to undergo SI of one month for the said offence.
6. Perusal of record reveals that the convict is in custody since 07.03.2020, therefore, period of custody as on date is more than 2 years. Therefore, he is sentenced to period already undergone by extending the benefit of section 428 Cr. P.C. Convict is further directed to pay a sum of Rs.7000/- (Rupees seven thousand Only) as "litigation expenses" to the State. Fine of Rs.5000/- alongwith expenses incurred by State to the tune of Rs.7000/- have been paid.
7. A copy of the judgment and that of order on sentence be supplied to convict free of cost forthwith. Convict has been informed that he has a right to challenge his conviction by availing free legal services at Tihar Jail. He be released immediately, if not required in any other case upon furnishing of bail bond under Section 437-A Cr.P.C. in the sum of Rs.15,000/- with one surety in the like amount to the satisfaction of Jail Suptd./Ld. Duty MM.

8. File be consigned to record room.

Announced in the open Court
on 09.06.2022

(Vineet Kumar)

Addl. Sessions Judge:

E-Court: SHD: KKD: DELHI