

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

IN RE:

SC 205/2019
CNR No. DLNE010027802019
STATE Vs. MOHD. SWALEEN KHAN
FIR No. 09/2017
PS Bhajan Pura
U/s 308 IPC



STATE VERSUS MOHD. SWALEEN KHAN

Date of Committal	:	17.07.2019
Date of Judgment of Conviction	:	18.03.2026
Date of Arguments on Point of Sentence	:	12.05.2026
Date of Order on Sentence	:	08.06.2026

ORDER ON SENTENCE

Present: Ms. Parul Singh, Ld. Addl. PP for the State.
Convict is produced from JC.
Sh. Jai Kr. Sharma, Ld. LAC for the convict.

1. The convict Mohd. Swaleen Khan was convicted for commission of the offence punishable under section 308 IPC vide the judgment dated 18.03.2026.

2. The previous conviction record of the convict has also been already filed by SHO, PS Bhajanpura. As per the report, the convict has no other involvement in any other criminal case/ FIR and there is also no past conviction record of the convict for any

offence.

3. The victim impact report is also filed. Perusal of victim report reveals that though complainant/victim had received head injury, however he did not sustain any serious harm and nature of injury was also opined as 'simple' in nature as per the opinion of doctor. It is further revealed that victim also did not suffer any financial loss and disability due to injury in question.

4. It is relevant to note here that an application seeking benefit of probation under Section 4 of Provision of the Offender Act, 1958 was also moved on behalf of the convict.

5. A report has also been already received from Probation Officer pursuant to the said application.

6. As per the report, convict is a 41 years old widower and living with his parents. The convict also have two minor children, out of which, one is differently abled. There are four brothers and one sister of the convict, out of which, two brothers are unmarried. However all the brothers of convict are living separately and children of the convict are also being looked after by the parents of the convict, who are also of old age. The convict used to work as an e-rickshaw driver/embroidery work prior to his detention in JC in the present case and used to earn Rs. 15,000/- approximately per month. It is also stated that the conduct of the convict in society is also found to be satisfactory and nothing adverse was reported by any of his neighbours. It is also stated that the convict also have the fair chances of

reforming himself and to re-join the society as a responsible citizen.

7. I have already heard both the sides on the point of quantum of sentence on LDOH.

8. Now coming to the instant case while making submissions on behalf of convict on the point of sentence and praying for the release of the convicts on probation, it is submitted by Ld. counsel for the convict that in the present case the convict has been convicted for the commission of offences u/s 308 IPC and the said offence is punishable with imprisonment up to three and in case of hurt, up to seven years (as applicable in the present case). Further, the convict Md. Swaleen Khan also does not have any past conviction record for the commission of any offence and he is also not found to be involved in any other criminal case.

9. It is also submitted by the Ld. counsel for the convict Md. Swaleen Khan that convict is the sole bread earner of his family and also has the responsibility his two minor children including one child who is also differently abled as well as of his old age parents who are completely dependent upon him for their survival and other basic needs. It is stated that the convict Md. Swaleen Khan used to work as an e-rickshaw driver and used to earn a meager salary of Rs. 15,000/-. It is also stated that wife of convict has already expired and as such, the entire responsibility of up bringing and the care of both minor children solely rest upon the shoulders of the convict. Further, convict is only aged about 41 years and was only 31 years of age at the time of the

incident in question and only in heat of moment committed the mistake.

10. Hence, it is prayed that a lenient view may be taken against the convict and a due chance may be given to him for his reformation and therefore, he may be granted the benefit of probation.

11. The Ld. Addl. Substitute PP for the State has also not opposed the application filed on behalf of the convict and has stated that in view of the past clean antecedents of the convict and no objection of the complainant for taking a lenient view against the convict as well as to grant the benefit of probation and also taking into account the current family position of the convict as well as his conduct in society as reflected in report of the Probation Officer and reasonable chances of the re-formation of the convict, she also has no objection if the benefit of probation is granted to the convict and he is not immediately sentence to the imprisonment for the convicted offence.

12. It is relevant to note here that the complainant Sh. Nadeem had also attended the Court in person on 12.05.2026 and also stated during hearing on the quantum of sentence that he has no objection if a lenient view is taken against convict. Further similar submissions were also made by his counsel again on LDOH while he attended the court through VC and stated that complainant has no objection if the benefit of the probation is granted to the convict.

13. This court has carefully considered the submissions made by all the parties and the records of the present case is also carefully perused.

14. In the present case, the convict is convicted for the commission of offence u/s 308 IPC on the complaint of the complainant since the convict had physically assaulted the complainant with a spanner/wrench on his head with intent/knowledge in an attempt to commit his culpable homicide not amounting to murder. Admittedly, the convict does not have any past criminal conviction record and there are also no other criminal involvement of the convict. The convict was also 31 year of age at the time of incident and as per the submission made by his Ld. counsel, the incident was committed by the convict in a heat of anger and admittedly there was also no pre-meditation and prior enmity between the parties.

15. Further, the report filed by the probation officer also reveals that the convict has a good conduct in the society and his neighbor and other residents of the society also did not disclose/raise any complaint regarding his social behavior. Likewise, it has also been stated that the convict is the only bread earner of his family and also have the responsibility of his two minor children as well as old age parents. The wife of the convict has also already expired and one of his child is also differently abled and as such completely dependent upon him for his look after and care. Further, the report of Probation Officer also indicate that there are also fair chances of the rehabilitation and reformation of the convict and of him again joining the society as

a responsible and law abiding citizen.

16. Hence, considering the above said position and no past conviction record of the convict and also taking into account his present family position and that there are good chances of reformation of the convict and the complainant of the case has also not opposed the grant of benefit of Probation to the convict as well as taking of a lenient view against him, the Court is of the view that the benefit of the probation can be extended to the convict Md. Swaleen Khan and it would be more appropriate to first release him on the period of probation instead of directly sentencing him to imprisonment.

17. Accordingly, the prayer made in the application seeking release of convict Md. Swaleen Khan on the period of probation stands allowed. The convict Md. Swaleen Khan is directed to be released on furnishing of a probation bond in a sum of Rs. 50,000/- with one surety of like amount for a probation period of 02 (two) year.

18. It is also directed that during the period of probation the convict shall keep peace in society and be a person of good behavior and shall also not indulge into any criminal activity. It is also directed that in the case of breach of the above said condition, the convict shall render himself liable to be again arrested and be produced before this court for the purpose of being heard afresh and to receive sentence as per law. The Probation bonds be furnished by the convict in the court within the period of three days from today.

19. The application of the convict, accordingly, stands disposed off.

20. Copy of order be given dasti to both the sides on request.

21. File be consigned to record room with the direction of revival after the expiry of one year for the purpose of hearing the accused afresh on the aspect of receiving of sentence, if any.

22. 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.

23. The convict has been informed of his right to prefer an appeal against the Judgment and order on sentence. He has also been apprised that if he can not engage an advocate, he can approach Legal Aid Cell, functioning in Mandoli 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.

**Announced in the open
Court on 08.06.2026**

**(BALWINDER SINGH)
ASJ (FTC)/North-
East/KKD Courts/
Delhi/08.06.2026**