

Order Below application under section 265B of CrPC for Plea Bargaining in
Criminal Case No.19582/2021

1. The accused person had moved an application under **Section 265-B** Cr.P.C. for plea bargaining. The application was supported with affidavit of the accused person. In the application brief description has been mentioned. The affidavit shows the voluntariness and understanding the nature and extent of punishment provided under the law. Accused person was not previously convicted in any case.
2. Notice of the application was given to the learned APP for the State. The time granted to the accused persons as well as learned APP for the State to discuss the plea of bargaining and its consequences. The Ld. APP has prayed to pass necessary order and has not taken any specific objection.
3. The accused was examined and after satisfaction of voluntariness further process of plea bargaining was conducted. The satisfaction has been observed that accused person voluntarily file the plea bargaining application and sufficient time also given to the learned APP for the State as well as to the complainant to work out mutual satisfactorily disposing of the case. The mutual satisfactory disposition works out as per **Section 265C** Cr.P.C.
4. Looking to the nature of offence it seems to this court that the offences under Section 185 of Motor Vehicle Act do not come under the purview of Socio-Economic offences as the Central Government has specifically determined the list of offences which fall under the definition of socio economic offences vide its notification no. S.O 1042(E), dated 11/07/2006.
5. The Section 185 of the Motor Vehicle Act is as following:

185. Driving by a drunken person or by a person under the influence of drugs.—Whoever, while driving, or attempting to drive, a motor vehicle,—

(a) has, in his blood, alcohol exceeding 30 mg. per 100 ml. of blood detected in a test by a breath analyser or in any other test including a laboratory test, or

(b) is under this influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle, shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine of ten thousand rupees, or with both; and for a second or subsequent offence, with imprisonment for a term which may extend to two years, or with fine of fifteen thousand rupees, or with both.

6. It is to mention that the no minimum sentence is prescribed for the offence. The basic principle of Criminal Jurisprudence has been that the punishment that fits the crime is the appropriate punishment in proportion to the culpability of the criminal conduct and it is what the offender or the perpetrator deserves for his crime. It is, also required to be noted that disproportionately large sentences in excess of blameworthiness would be as unjustifiable as disproportionately small sentences. Disproportionately large sentences would be futile and useless infliction of suffering, it represents needless suffering.
7. It is evident that accused is poor, uneducated and he has not been previously convicted for same kind of offence. There are high prospects of rehabilitation as he does not appear to be a habitual offender. Therefore to reduce the delay in the disposal of criminal trials and appeals and keeping in mind the real purpose of sentencing, the accused person held guilty of offence punishable under S. 185 of the Act.
8. The accused person heard on the quantum of sentence. As the statute does not provide for minimum punishment, in these facts and circumstances of the case I pass the following order:

ORDER

1. The accused is hereby sentenced to undergo sentence of imprisonment till rising of the Court and to pay a fine of **Rs. 2500/-** (Rupees Two Thousand Five Hundred Only) and in default to undergo imprisonment for one month.
2. The statements or facts stated by an accused in the present application for plea bargaining filed under section 265B shall not be used for any other purpose except for the purpose of the present Case.
3. Muddamaal vehicle, if still lying in police custody, be handed over to the better claimant after verifying credentials, in due manner.
4. The case file be consigned to record room after due compliance.

Announced in open Court.
12/03/2022

(Himanshu Choudhary)
JMFC (2nd Court), Surat; GJ01180