



\$~75

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P. 292/2024

BUNDU KHAN Petitioner

Through: Mr. R.P. Singh, Adv.

versus

THE STATE GOVT OF NCT OF
DELHI

..... Respondent

Through: Mr. Utkarsh, APP for the
State

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

%

29.02.2024

CRL.M.A. 6524/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.REV.P. 292/2024 & CRL.M.(BAIL) 364/2024
(suspension of sentence)

3. The present petition is filed challenging the order dated 09.02.2024 passed by the learned Additional Sessions Judge, Karkardooma Courts, in CA No. 58/2023 (hereafter '**the impugned order**'). The petitioner also impugns the judgment dated 10.04.2023 and the Order-on-Sentence dated 05.06.2023, passed by the learned Metropolitan Magistrate in FIR No. 166/2003 under Sections 279/337/304A/471 of the Indian Penal Code, 1860 ('**IPC**') and Section 3 & 181 of the Motor Vehicles Act, 1988 ('**MV Act**').

4. By the judgment dated 09.02.2024, the petitioner's appeal against judgment dated 10.04.2023 and the Order-on-Sentence



dated 05.06.2023, has been dismissed, and he has been convicted for offences under Sections 279/337/304A/471 of the IPC and Sections 3 & 181 of the MV Act

5. By order on sentence dated 05.06.2023 the petitioner has been sentenced to undergo:

- i. simple imprisonment of one month and fine of ₹1000/- for the offence u/s 279 IPC,
- ii. simple imprisonment for two months and fine of ₹1000/- for the offence under section 337 IPC,
- iii. simple imprisonment for one year and fine of ₹5000/- for the offence under section 304-A IPC and
- iv. imprisonment for six months for the offence under section 471 IPC and section 3/181 of MY Act and ₹10,000/- fine.

All the sentences have been directed to run concurrently. In default of payment of fine, the petitioner was to undergo simple imprisonment for one month.

6. In addition to the sentence, awarded aforesaid, the petitioner had been directed to pay compensation to the injured and family of the deceased in the sum of Rs.75,000/- (Seventy Five Thousand only).

7. The learned counsel for the petitioner submits that the incident was a case of accident where, unfortunately, the victim had passed away.

8. He submits that the petitioner has been held negligent only on the statement of the complainant who stated that the petitioner was driving the truck in a rash manner.

9. He submits that there is no other independent witness to corroborate the fact that the petitioner was negligent while driving the vehicle. He submits that even though it is claimed



that the petitioner was driving at a high speed, however, no independent witnesses have been produced to corroborate the said fact.

10. He further submits that the petitioner had run away from the spot because he got scared after seeing the number of people approaching the petitioner. He further submits that there are contradictions in the deposition of the witnesses.

11. Lastly, he submits that the trial in the present case took more than 20 years and the petitioner, at the present moment, is 74 years of age suffering from various medical ailments.

12. The matter requires consideration. *Prima facie*, there cannot be a presumption of negligence only because the victim has died.

13. On being asked, the learned counsel for the petitioner submits that the fine imposed by the learned Trial Court on the petitioner has not been paid and states that the petitioner is not gainfully employed at the moment and is dependent on his family members for the living. He, however, submits that the fine imposed by the learned Trial Court would be deposited within a period of four weeks from today.

14. Considering the above, the applicant is admitted on interim bail for a period of four weeks on furnishing a personal bond in the sum of ₹20,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court/ Duty Metropolitan Magistrate, on the following conditions :

- a. The petitioner / applicant shall upon his release provide his mobile number to the IO/SHO;
- b. The petitioner / applicant shall inform his address, where he would be residing after his release to the IO/SHO;



- c. The petitioner / applicant shall not leave the country without the permission of the learned Trial Court;
- d. The petitioner / applicant shall surrender before the jail authorities on expiry of four weeks from the date of his release.

15. List on 02.04.2024.

AMIT MAHAJAN, J

FEBRUARY 29, 2024

“SS”