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

+ CRL.REV.P. 766/2017

MOHD SALEEM

..... Petitioner

Through

Mr. Sameer Sharma, Adv.

versus

THE STATE GNCT OF DELHI

..... Respondent

Through

Ms. Meenakshi Dahiya, Addl. PP for the
State

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **31.10.2018**

Crl. M. (Bail) 1814/2017 (suspension of sentence)

1. Petitioner impugns order dated 31.05.2017 of the appellate court whereby the appeal of the petitioner impugning judgment on conviction dated 08.05.2014 and order on sentence dated 21.05.2014 was dismissed.
2. Petitioner has been convicted of an offence under Section 326 of the IPC and sentenced to undergo SI for a period of three years with a fine of Rs. 4,000/-, in default to further undergo SI of one month.
3. Learned counsel for the petitioner submits that the trial court has erred in not appreciating the evidence. He submits that the alleged incident is of night and the statement of the sons of the victim/complainant is that they were sleeping and they spotted the petitioner running away from the spot and they were at a distance of 50 yards away during the night time.
4. It is further submitted that it was month of October and there was no light in the area, therefore, it was not possible for a person to spot or identify from a distance of approximately 50 yards.



5. Learned counsel for the petitioner submits that he has already undergone over half of the awarded sentence.

6. Nominal roll dated 11.12.2017 of the petitioner has been received. As per the nominal roll as on 16.06.2017 the petitioner had undergone six months and 27 days of incarceration and earned remission of one month and twelve days. After 16.06.2017, one year and four months have passed, petitioner is still in custody.

7. Without commenting on the merits of the case and also keeping in view the facts and circumstances of the case, application is allowed.

8. Accordingly, on petitioner furnishing a bail bond in the sum of Rs. 20,000/- with one surety of the like amount to the satisfaction of the trial court, remaining sentence of the petitioner shall remain suspended during pendency of the present petition. The petitioner shall be released, if not required in any other case. The application is allowed.

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9. List for consideration on 01.04.2019.

10. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

OCTOBER 31, 2018/‘rs’