



2026:DHC:3426



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

Date of Decision: 23<sup>rd</sup> April, 2026

IN THE MATTER OF:

+ CRL.A. 744/2003 & CRL.M.(BAIL) 646/2026

KAILASH CHAND @ BOBBY

.....Appellant

Through: Mr. Satish Kumar, Adv. alongwith  
Appellant-in-person.

versus

STATE THR. N.C.T. OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for the  
State with SI Pinki Yadav, PS Dabri.  
SI Sahil, PS Prasad Nagar.  
SI Sandeep Tomar, PS Harsh Vihar.

**CORAM:**

**HON'BLE MR. JUSTICE VIMAL KUMAR YADAV**

**JUDGMENT (ORAL)**

**VIMAL KUMAR YADAV, J.**

1. A TSR driver Umesh Mehto, who used to take people to their destinations as per their requirements, was taken for a ride by two persons namely Ashok @ Jony and Kailash Chand @ Bobby on 13.07.1999 at about 3:00 AM in the jurisdiction of PS Parsad Nagar. It so happened that the aforesaid two persons were coming on a two wheeler and while Umesh Mehto, after dropping a passenger, was about to move away, he was stopped by these two persons and one of them asked him to take to a nearby place in the vicinity of Rajender Place near Parsad Nagar, Karol Bagh, Delhi. It soon turned out to be a nightmarish trap for the victim Umesh Mehto. It was



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verily, a ploy to hire his TSR, whereas the intention of the duo was to rob him. One person, out of those two on the two-wheeler pretended to hire his TSR, whereas the other followed the TSR. Umesh was made to stop the TSR at an isolated place in a service road near Rajender Place. The TSR driver Umesh Mehto was vulnerable on account of the fact that the service lane was deserted and it was around 3:20 AM in the night, when otherwise movement on the roads becomes negligible. Umesh was robbed of his wrist watch and cash of Rs. 180/-. The robbers were about to flee, but were not lucky enough to make their escape good inasmuch as a police patrol of P.S. Parsad Nagar emerged there and caught hold of both the robbers alongwith the knife, which was used to rob the victim Umesh Mehto.

2. The defence taken by the Appellant that they were coming from a birthday party, remained a bald assertion inasmuch as despite opting, no defence evidence was brought which they could have easily brought to show that they were in a birthday party and were coming back from there when the police apprehended them. No such effort has been made to ensure it, so it turned out to be nothing but empty and hollow contention.

3. The FIR No. 231/1999 was registered at P.S. Parsad Nagar which, ultimately, culminated into a chargesheet and the trial, resulted into conviction of both the robbers i.e. Ashok @ Jony and Kailash Chand @ Bobby (Appellant herein), wherein Ashok @ Jony was found to be the person who had used the deadly weapon to commit the offence of robbery, thus, he was sentenced to Rigorous Imprisonment (RI) for seven years with a fine of Rs. 500/- and in default he was to undergo RI for one month under Section 392/397 IPC, apart from being sentenced under Section 25/27 of the Arms Act.

4. The Appellant in the instant case i.e. Kailash Chand @ Bobby was



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sentenced to Rigorous Imprisonment (RI) for three years and to pay a sum of Rs. 1000/- as fine under Section 392 IPC, in default of payment of fine, he was to undergo Rigorous Imprisonment (RI) for three months.

5. In the backdrop of these facts and circumstances, the instant appeal has been filed by Kailash Chand @ Bobby.

6. The initial contention was that certain discrepancies are there in the case of the prosecution which makes it susceptible to doubt and suspicion, but subsequently, learned counsel for the Appellant decided not to assail the judgment of conviction, rather confined his arguments exclusively to the aspect of sentence.

7. It has been put forth by him that the Appellant was 19 years of age when he got entangled into this case and since then there is no other offence which can be attributed to him, notwithstanding the list of cases, which were all based upon the disclosure statements recorded by the police in the instant case, but without any outcome in the shape of trial or conviction.

8. It is further submitted that he has two young children to look after apart from his mother. The responsibility to look after the children gets compounded in view of the fact that he has lost his wife. It is, therefore, submitted that he may be considered for a lightest possible sentence in view of his medical condition as he is a patient to Tuberculosis. He is unlikely to get proper treatment and nutritious food in the prison, which is required to fight the Tuberculosis. It is further submitted that he may be considered for the period of custody already undergone by him as sufficient sentence inasmuch as his conduct during the stay in jail has been, reportedly, satisfactory and nothing adverse was reported.

9. So far as the judgment of conviction is concerned, the same has not been assailed and in any case, there is nothing much which may go in favour



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of the Appellant inasmuch as there are witnesses to the effect that robbery was committed by him alongwith his associate and that the robbed articles/money was recovered then and there by the police. There is no reason as to why the victim Umesh Mehto would depose anything against the Appellant. They were unknown to each other, therefore, there was no question of having any sort of enmity or animosity between them. The only vulnerable aspect of the case of the prosecution is whether the robbers were able to escape from the scene or were caught at the spot? The victim Umesh Mehto has stated that after robbing him, the robbers fled, whereas the police official i.e. HC Suresh Kumar has stated that the robbers were apprehended and arrested at the spot itself and recoveries were also effected from them as they were caught in the process of starting their two wheeler scooter.

10. The vulnerability starts evaporating when the testimony of victim Umesh Mehto (PW-2) is looked into, where it has been deposed that one of them i.e. Ashok @ Jony is telling Kailash Chand @ Bobby to switch off the scooter. This is indicative of the fact that the two wheeler of the robbers, was switched off by Appellant-Kailash Chand @ Bobby. Thus, the deposition of HC Shiv Kumar founds some support that the robbers were in the process of starting it. Thus, this anomaly or contradiction can be ignored. Rest of the prosecution's case has sufficient evidence and corroboration, therefore, the appeal so far as the conviction is concerned stands dismissed.

11. On the aspect of sentence, in addition to the aforesaid pleas, it is also submitted that the Appellant was at an impressionable and susceptible age and was called rather forced by the co-accused Ashok @ Jony to come with the scooter i.e. two wheeler no. DL-6ES-3869 belonging to the father of the Appellant herein. It may or may not be correct, but possibility cannot be ruled out since the two-wheeler belonged to the father of the Appellant is a



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fact and it was the Appellant who was driving it.

12. The contention that the co-accused was amongst the bad character of the area, therefore, Appellant was influenced or say coerced to bring the two-wheeler, used in the crime.

13. Learned APP, in this context, submitted that a commensurate sentence *vis-a-vis* the offence committed by the Appellant should be there. The plea of undergone has been opposed, as the Appellant has not even undergone one-third of the sentence awarded to him.

14. Considering the entire gamut of facts and circumstances, especially the fact that the Appellant, a Tuberculosis patient, which he otherwise appears to be and that being communicable disease, would endanger the inmates if he is sent to jail. Apart from that he will not get the requisite diet even if he gets treatment in the jail hospital. Therefore, taking into account the vulnerability of his children, the void in his life and the responsibility of his parents, it appears to be an unwarranted exercise to send him back to jail in order to serve the sentence. As such, he deserves indulgence to be given on these counts.

15. However, in order to contain and check his wayward tendencies, if it is still there hidden somewhere deep down, it seems appropriate, in these circumstances to extend the benefit of probation to him as in that eventuality, some control would be there and in any case if he is found involved in any other case, he would not only be tried and punished for the said offence, but the punishment in the instant case, would also befall upon him. As such, the benefit of probation is extended to the Appellant and he is released on probation on furnishing a bond of good conduct in the sum of Rs. 20,000/- for a period of two years. He be released forthwith, if not required in any other case. The bond shall be furnished before the learned



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Trial Court. And if need be, he shall be produced before the Trial Court to enable him to furnish the bond which shall be facilitated by the Prison Authority.

16. Appeal stands disposed of accordingly. Pending application(s), if any, also stands disposed of.

17. Copy of the judgment be transmitted to the concerned Trial Court and the Jail Authorities for information and necessary compliance.

**VIMAL KUMAR YADAV, J**

**APRIL 23, 2026/akc**