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

% Date of Decision: 22.08.2025

+ **CRL.A. 866/2023**

SACHIN @ MODELAppellant

Through: Mr. R.P. Yadav, Advocate.

versus

THE STATE (GOVT. OF NCT OF DELHI)Respondent

Through: Ms. Shubhi Gupta, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

CRL.M.(BAIL) 1444/2023 (suspension of sentence)

Since arguments in the appeal itself have been heard, this application seeking suspension of sentence during the pendency of the appeal has become infructuous and is disposed of as such.

CRL.A. 866/2023

1. By way of the present appeal filed under Section 374(2) Cr.P.C., the appellant seeks to assail the judgment of conviction dated 17.02.2023 and order on sentence dated 12.04.2023, passed by the learned Chief Metropolitan Magistrate, North-West District, Rohini Courts, Delhi in Criminal Case No. 6591/2022 arising out of FIR No. 359/2022 registered under Sections 356/379/34 IPC at P.S. Ashok Vihar.

Vide the impugned judgment and order on sentence, the appellant was



convicted under Sections 394/411 IPC and sentenced to undergo SI for a period of 7 years alongwith a fine of Rs.2,000/-, in default whereof he was sentenced to undergo SI for 1 month for the offence punishable under Section 394 IPC; and SI for a period of 3 years for the offence punishable under Section 411 IPC. The sentences were ordered to run consequently and benefit under Section 428 Cr.P.C. was given to the appellant.

2. As per the case of the prosecution, the appellant, alongwith one *Himanshu*, had committed the offence of robbery on 24.04.2022 by snatching the purse of the complainant. Finding no role, cognizance against *Himanshu* was not taken, however, charges were framed against the appellant under Sections 392/394/411 IPC, to which he pleaded not guilty and claimed trial.

3. The prosecution examined the complainant/*Rachita Kalra* as PW-1; *Raju Mishra*, from whom the appellant had borrowed the motorcycle which was used in the commission of the offence as PW-3; SI *Deepak*, Constable *Pawan*, Constable *Braham Prakash* and ASI *Sanjiv Kumar*, who arrested the appellant and recovered the robbed articles as PW-5, PW-2, PW-4 and PW-10 respectively. *Himanshu @ Gogi* was examined as a Court witness. The other witnesses were also police officials and deposed about various aspects of the investigation.

4. *Himanshu*, deposed that on 24.04.2022, he had gone to attend a marriage function at *Jahangir Puri*. As it was late, around 02:00 AM on 25.04.2022, he requested the appellant, who was residing at some distance from his house, to drop him back home. The appellant, instead of driving straight home, took 2-3 rounds of the *Haiderpur/Wazirpur* area under the pretext that one of his friends was coming. Though no such friend came, the



appellant snatched the purse of a lady who had come out from the banquet hall at Wazirpur Industrial Area. The witness also stated that before dropping him at his house, the appellant threatened him to not disclose the incident to anyone.

5. The complainant deposed that on 24.04.2022, she had gone to attend the birthday party of her nephew at “LA Mansion Banquets”, Wazirpur Industrial Area, Delhi. After the party, when she reached the service road outside to board her car, suddenly a motorcycle came, and her bag, containing a mobile phone (make: Apple iPhone 12 Pro Max) belonging to her mother and one diamond chain weighing around 50 grams, was snatched. She stated that there were two boys on the motorcycle, and the boy driving the motorcycle had snatched her bag. At that time, she tried to resist; however, due to the jerk from the snatching, she fell onto the road and hurt her left hand, leg, and face.

6. The diamond chain and the mobile phone recovered at the instance of the appellant were duly identified by the complainant in TIP proceedings and the same were subsequently released to her on *superdari*. She also identified the appellant as the person who had snatched her purse.

In her cross-examination, she clarified that neither of the two occupants of the motorcycle were wearing a helmet. She further stated that there was proper lighting at the spot, and that after her bag was snatched, the motorcycle sped away.

7. PW-3/*Raju Mishra* affirmed in his deposition that the appellant had borrowed the motorcycle from him. In his cross-examination, he stated that the motorcycle was returned to him in the early morning of 25.04.2022. He denied the suggestion that the motorcycle was not borrowed by the



appellant.

8. ASI *Sanjiv* deposed as PW-10 that upon receiving information about the incident in question, he reached the spot and recorded the statement of the complainant. He stated that on examining the CCTV footage, a blue-coloured motorcycle was visible; however, the identity of the accused persons was not clear. Upon receipt of secret information regarding the whereabouts of one of the accused, the appellant was arrested from his house, and based on his disclosure; the case property was recovered from the *chajja* of a small window on the first floor of his house. Although *Hitanshu @ Gogi* was also arrested, cognizance of the offences charge-sheeted against him was declined by the Trial Court due to there not being sufficient evidence against him. Being a material witness, he was examined as a Court witness. To the same extent is the testimony of the police officials who had accompanied ASI *Sanjiv* at the time of arrest and recovery of the robbed articles.

9. Learned counsel for the appellant contends that the recovery is doubtful, as the I.O. failed to join any public witnesses. He further states that there exists discrepancy in the weight of the diamond chain stated by the complainant and the actual weight of the chain recovered. He further stated that the injuries suffered by the complainant were simple in nature. However, I find the said contentions to be trivial in light of the categorical statement of the complainant as well as the Court witness. The identity of the appellant, as well as the robbed articles recovered at his instance from his house, were categorically established during the trial.

10. At this stage, learned counsel for the appellant, on instructions, states that the appellant, being fully aware of the consequences, does not wish to



press the present appeal on merits and rather prays that he may be released on the period already undergone by him. He further states that one week time be granted to deposit the fine.

11. The latest nominal roll on record shows that, as on 02.07.2024, the appellant had undergone 2 years, 2 months, and 1 day of incarceration, and earned 4 months of remission. The appellant was statedly above 18 years of age at the time of commission of the offence. The nominal roll reflects that the appellant is involved in five other cases, all involving Sections 356 and 379 IPC. All the said offences happened prior to the present offence, and he is stated to be out on bail with respect to all of them. He has been working as a *Chakkar Sahayak*, and his conduct in jail for the last one year is stated to have been satisfactory.

12. Considering all of the aforesaid, the appellant's prayer for release on period already undergone is accepted. However, the sentence of fine imposed upon the appellant, as well as the default sentence for non payment of fine, is maintained. If the appellant fails to deposit the fine imposed upon him by the Trial Court, he shall undergo the sentence in default of payment of fine as contained in the impugned order on sentence.

13. The present appeal is partly allowed in the above terms.

14. A copy of this order be communicated to the Trial Court as well as to the concerned Jail Superintendent, for information and necessary compliance.

(MANOJ KUMAR OHRI)
JUDGE

AUGUST 22, 2025/rd