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Boy spends one year in jail for stealing Rs 200

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NEW DELHI: On Thursday, a metropolitan magistrate convicted Shamsuddin Fakruddin of theft, making it the happiest day of his life. As his lawyer explained to him that the court had just declared him guilty, Shamsuddin's boyish face broke into a smile. He was finally free.

For 12 months now, Shamsuddin (19) has been lodged in Tihar Jail despite the fact that his alleged crime, that of stealing Rs 200, would usually carry a sentence of three months' imprisonment. After being denied bail once, he was granted bail three months ago, but did not have the Rs 10,000 in property needed for a bail bond.

Shamsuddin changed his initial not-guilty plea to a guilty plea when he learnt that his father had passed away two days ago. "I'll say I am guilty. I just want to get out. I just want to go home to my village," he whispered to his lawyer.

After migrating to Delhi four years ago from his village in Uttar Pradesh's Bahraich district on the border with Nepal, Shamsuddin sold vegetables at a street corner near Okhla mandi. On August 5 last year, Shamsuddin was picked up by the Amar Colony police on charges of taking a wallet containing Rs 200 and an ATM card from the pocket of a complainant.

Shamsuddin maintains that he did not commit any theft, and that the wallet in his pocket was his own. He was arrested and charged under sections 379 (theft) and 411 (dishonestly keeping stolen property) of the IPC, and sent to Tihar Jail for judicial custody. Boy jailed for a yr for .

Despite his alleged crime typically carrying a sentence of three months, Shamsuddin was first denied bail on February 26, 2011, because of the "seriousness" of his crime. He had by then already completed six months in judicial custody.

Then two months later, he was granted bail by metropolitan magistrate Mona Tardi Kerketta, provided he furnished a bail bond of Rs 10,000 and that someone could stand surety for him.

By this time, lawyers of the Human Rights Law Network, an NGO that fights human rights cases and represents the poor pro bono, had met Shamsuddin in Tihar Jail, and started representing him. However, Shamsuddin's family could not be located, and he did not have property or savings that he could show as collateral against the Rs 10,000 bail bond. So, he was forced to remain in judicial custody.

On Thursday morning, police officers brought Shamsuddin to the magistrate's court. Just over five feet tall, he wore a cream-coloured shirt and black trousers and looked hollowed, casting nervous glances at his lawyer. He had hurt his leg, he said, and asked if he could sit as he awaited his turn, a request that was turned down. Half an hour after he was produced in court, metropolitan magistrate Kerketta heard Shamsuddin's lawyer's plea. They had decided to plead guilty as the surest way of getting released.

The magistrate convicted Shamsuddin and ordered his release. He did not understand what had just happened until it was explained to him by his lawyer. "She is releasing you," his lawyer said. Shamsuddin was taken back to Tihar Jail by the policeman who had brought him there.

After a copy of the order reaches jail authorities, Shamsuddin will be released. "Tell him not to do something like this again," the policeman told Shamsuddin's lawyer as they waited for the lift. "But I didn't do anything in the first place," Shamsuddin said to no one in particular. Unfortunately, Shamsuddin's case is not rare. HRLN is currently handling 17 other cases of petty theft where the accused is between 18-22 years old and has been in judicial custody for over six months.

In most of the cases, bail has been granted but the accused remains in custody either because he is unable to show property or savings for the bail bond, or because the police have not been able to verify his correct address for his release on a personal bond.

Times View

As per rulings of the Supreme Court, those who have spent more time in jail as undertrials than the maximum sentence for the crime they are charged with should be granted bail. As this case shows, granting bail can often become meaningless if the accused does not have the means to come up with the bail amount. We, therefore, suggest that in such cases bail should be given without any surety. The accused should then be told that if he or she absents himself from future hearings of the case, guilt will be presumed and he or she will be convicted as charged. Since the maximum possible punishment has anyway been extracted, the prosecution and society lose nothing if the person absconds. So why insist on surety?

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