

DLCT110003052021



**IN THE COURT OF MS. KAVERI BAWEJA,
ADDITIONAL SESSIONS JUDGE/SPECIAL JUDGE (PC
ACT), CBI-09 (MPs/MLAs CASES), ROUSE AVENUE
DISTRICT COURT, NEW DELHI**

SC No. 03/2021

CNR No. DLCT-11-000305-2021
(Old CNR No. DLCT120000332021)

State

Versus

**Sajjan Kumar
S/o Ch. Raghunath Singh,
R/o H.No. B-3/1, Mianwali Nagar,
Paschim Vihar, New Delhi.**

**FIR No. 458/91
PS Saraswati Vihar
(now known as PS Subhash Place)
U/S 147/148/149/302/307/326/
395/397/427/436/440/201 IPC**

Date of Judgment	12.02.2025
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**ORDER ON SENTENCE
25.02.2025**

1. *Sajjan Kumar S/o Ch.Raghunath Singh* has been convicted in the instant case for offences punishable under Sections

147/148/149 IPC and for offences punishable under Sections 302/308/323/395/397/427/436/440 read with Section 149 IPC vide judgment dated 12.02.2025.

2. I have heard submissions of Sh.Anil Kumar Sharma, Sh.Anuj Sharma, Sh.Apoorav Kumar Sharma, Sh.S.A.Hashmi and Sh.C.M.Sangwan – Ld. Counsels for the Convict, Sh.H.S.Phoolka - learned Sr. Counsel with Ms.Surpreet Kaur, Advocate for the Complainant as well as Sh.Manish Rawat - learned Addl. PP for the State on the point of sentence and have also gone through the written submissions filed by them.

Submissions of learned Addl. PP for the State

3. It has been submitted that the Prosecution has successfully proved that the convict Sajjan Kumar, being a member of an unlawful assembly which used force and violence by means of deadly weapons i.e. iron rods, *lathies* etc., is guilty of committing the murder of Sardar Jaswant Singh aged about 50 years and his son Sardar Tarundeep Singh aged about 18 years as they were burnt alive. Ld. Addl. PP for the State further submitted that the Convict being a member of an unlawful assembly, is also guilty of inflicting grievous injuries on PW-11 (daughter of S.Jaswant Singh) and PW-12 (niece of S.Jaswant Singh) and inflicting many injuries on the Complainant i.e. PW-13 (wife of S.Jaswant Singh) during the incident of rioting on 01.11.1984. In addition, the convict, being a member of an unlawful assembly, is also guilty of looting the household articles of S.Jaswant Singh and destruction of his house by fire.

4. In support of his submissions that death sentence be awarded to the Convict for offence under Section 302 r/w Section 149 IPC, learned Addl. PP for the State relied upon the case of ***Bachan Singh vs. State of Punjab, 1983 (1) SCR 145*** and submitted that Hon'ble Supreme Court in its majority judgment, upheld the constitutionality of the death sentence, on the condition that it could be imposed in 'rarest of rare' cases. Hon'ble Supreme Court held that a balance sheet of aggravating and mitigating circumstances has to be drawn up and a just balance has to be struck between aggravating and mitigating circumstances before the option of death penalty is exercised.

5. He further relied upon the judgment of ***Machhi Singh & Ors. vs. State of Punjab, (1983) 3 SCC 470***, where it was held that the following questions may be asked and answered as a test to determine the rarest of rare case in which death sentence can be inflicted:

a) Is there something uncommon about the crime which renders sentence of imprisonment for the life inadequate and calls for the death sentence?

b) Are the circumstances of the crime, such that there is no alternative but to impose death sentence even after according maximum weightage to the mitigating circumstances which speak in favour of the offenders?

6. Learned Addl. PP for the State further relied upon the

judgment of *Mukesh & Anr. vs. State (NCT of Delhi) & Ors., (2017) 6 SCC 1*, wherein the Hon'ble Apex Court laid down principles to be followed in case relating to imposition of death penalty.

7. Learned Addl. PP pressed the following submissions in support of his arguments that the present case falls in the category of rarest of rare cases and the Convict should be awarded death penalty:-

a) The Accused, along with an unruly mob, targeted persons of a particular community only, that too without any provocation. In the incident, four helpless women were badly beaten. A young man aged about 18 years and a man of around 50 years of age, who had exhibited no provocation, were burnt alive in presence of their family members i.e. PW11, PW12 and PW13.

It is submitted that the murders of Jaswant Singh and Tarundeep Singh were committed in an extremely brutal and diabolical manner so as to shock the collective conscience of the society and the impact on the psychology of the survivor victims i.e. PW11, PW12 and PW13 is apparent from their demeanor recorded during their testimonies. Ld. Addl. PP for State pointed out that even after 39 years, they were inconsolably weeping during trial of the case while deposing before the court. Serious bodily and mental

harm were caused to these women besides physical destruction of their properties. Moreover, the Victims had to leave their place of residence.

b. It was further contended that the impact and magnitude of the crime in this case is so enormous that in fact it amounts to a crime against humanity and involved genocide of the members of the a particular community. Ld. Addl. PP for State highlighted that India is a signatory to the Convention on the Prevention and Punishment of the crime of Genocide, adopted by General Assembly of United Nations on 9th Dec, 1948 and the Convict must be punished with the severest form of prescribed punishment.

c. He further urged that an incident of this kind, breaks the entire fiber of trust and harmony amongst communities, thereby, severely affecting the knitting and assimilation of different religious or social groups. These riots led to a large scale of migration of persons of Sikh community, severely prejudicing their lives and livelihood.

d. It was also submitted that the Convict was a people's representative as he was an elected MP of the area and instead of helping public persons, he openly broke the rule of law. Accused was such a powerful

person that he escaped the process of law from 1984 to 2016 and it was only in 2016 when the Government constituted the SIT and the statements of witnesses were properly recorded, that the survivors finally got justice.

e. Referring to the ruling of Hon'ble High Court in case titled as State through CBI Vs. Sajjan Kumar & Ors., (2018 SCC online Del 12930), Ld. Addl. PP for the State further submitted that in a similar case, Hon'ble Delhi High Court convicted Sajjan Kumar and sentenced him to imprisonment for life i.e. the remainder of his natural life. Thus, he is a previous convict for a similar nature of crime and there is no ground for any leniency in his case.

f. Extending his submissions for capital punishment further, learned Addl. PP for State submitted that the present case is graver than the 'Nirbhya' case as in that case, a young woman was targeted, but in the present case, persons of a particular community were targeted at the behest of the Convict.

Submissions by Ld. Senior Counsel for the Complainant

8. Learned Sr. Counsel for Complainant also submitted a written synopsis in support of his submissions that the Convict deserves the maximum prescribed punishment i.e. death penalty, having regard to

the facts of the present case.

9. In support of his arguments he relied on the observations of the Hon'ble High Court in its verdict dated 17.12.2018 in case titled as *State (through CBI) vs. Sajjan Kumar & Ors.*, (2018 SCC OnLine Del 12930) and argued that the killings of two innocent persons in the present case are in fact a crime against humanity.

He further relied upon the observations of Hon'ble Delhi High Court in the case of *Court own its own Motion vs. Vidyanand & Ors.*, (2017 SCC OnLine Del 7705), wherein it was observed as follows:-

“During the course of hearing Crl.A. Nos. 715/2013, 753/2013, 831/2013, 851/201, 861/2013, 1099/2013 and 710/2014, we have repeatedly queried counsels as to who was killed, or even how many died in the violence which erupted after the 31st of October, 1984? We have got no firm answer at all. The complaints in SC No. 10/86 (lodged by Daljit Kaur); 11/86 (lodged by Swaran Kaur- widow); 31/86 (lodged by Jagir Kaur widow); 32/86 (lodged by Sampuran Kaur - widow) and 33/86 (lodged by Baljit Kaur - daughter) show that only adult male members of families of one community were killed. The complaints disclose horrifying crimes against humanity. The complaints also point out that male members of one community were singled out for elimination. This suggests that these were no ordinary crimes, or 'simple' murders (if ever a murder could be termed as 'simple'). Treated as individual cases, while the culprits got away scot free, everybody else,

the police, the prosecutors, even the courts, appear to have failed the victims, and, most importantly society. Perhaps, had these terrible offences in 1984 been punished and the offenders brought to book, the history of crime in this country, may have been different. We are of the view that if we fail to take action even now, we would be miserably failing in our constitutional duty as well as in discharging judicial function."

10. Sh.H.S.Phoolka, Ld. Senior Counsel for Complainant further submitted that the convict Sajjan Kumar has already been awarded life imprisonment till remainder of his natural life by the Hon'ble High Court in *State (through CBI) vs. Sajjan Kumar* (Supra) and considering that two innocent persons were murdered in the present case at the hands of a mob, of which the Convict was a part of, there is no doubt that the Convict deserves to be awarded death penalty and nothing less.

Submissions by learned Counsel for Convict

11. By way of his written submissions on the point of sentence, learned Counsel for the Convict submitted that the Prosecution has failed to show any justifiable reason for awarding the maximum penalty of death sentence to the Convict in the present case. It was highlighted that the law has been settled by way of an amendment in the Indian Penal Code in the year 1955 and with the addition of provision of imprisonment for life for offence under Section 302 IPC, the position has changed and now life imprisonment is the rule whereas death penalty is an exception.

12. He relied on various rulings of the Hon'ble Apex Court including the case of *Bachan Singh vs. State of Punjab (Supra)* and *Machhi Singh & Ors. vs. State of Punjab (Supra)* and argued that capital punishment is to be awarded only in 'rarest of rare cases' and that the present case does not fall in that category.

13. In support of his plea for the lesser sentence, learned Defence Counsel submitted that the Convict is already undergoing life imprisonment awarded to him by the Hon'ble High Court vide judgment dated 17.12.2018. It is submitted that the said case against the Accused (Convict herein) also emanated out of a similar incident of violence and rioting pursuant to the assassination of the then Prime Minister Smt.Indira Gandhi and the said case related to killings of five (05) persons, besides other allegations.

14. Learned Defence Counsel submitted that the Hon'ble High Court also did not impose death sentence in the said case and considering the various mitigating circumstances, the Convict in the present case also does not deserve death penalty as prayed for by the Prosecution and the Complainant.

15. Highlighting the mitigating factors to be considered, learned Defence Counsel submitted that the Convict is aged about 80 years and suffering from various ailments including unexplained rapid weight loss besides Parkinson's disease and chronic Hyponatremia. He submitted that the Convict remained under treatment for a long

time and was even rushed to Safdarjung Hospital several times as he fainted in Tihar Jail. He is stated to have become infirm and incapable of taking care of himself on account of his old age and critical and deteriorating health conditions.

16. He further submitted that the behaviour of the Convict remained satisfactory and normal while in custody which is also a factor supportive of the possibility of his reformation. Learned Defence Counsel further urged that the Convict has roots in the society and his family comprises of his wife who is also bed ridden due to various health issues. Besides this, his family also includes his children and grand children. It is further submitted that he remained a Member of Parliament three times and was also engaged in large scale development work to aid and rehabilitate victims of violence and it is prayed that a humane approach be taken and death penalty be not awarded to the Convict.

17. Learned Defence Counsel also submitted that in the present case the Convict was admitted to Bail vide order dated 27.04.2022. The said order was challenged in the Hon'ble High Court by the State and vide order dated 04.07.2022 passed in Crl.MC No.2931/2022 titled as 'State (through SIT 1984 Riots) vs. Sajjan Kumar' the order dated 27.04.2022 was ordered to be stayed. However, vide order dated 20.02.2025 the Hon'ble High Court has disposed of the said petition as the same has become infructuous in view of the fact that the Accused has been convicted.

Reports of Jail Authorities/Probation Officer

18. Report(s) of the concerned Jail Superintendent/Probation Officer were also called for in terms of directions of the Hon'ble Supreme Court in case titled as ***Vikas Chaudhary vs. The State of Delhi in Crl. Appeal No.276/2022 decided on 21.04.2023.*** The reports dated 22.02.2025 received from the Jail Authorities in terms of the aforesaid directions have also been perused.

19. The Probation Officer reported that prior to his incarceration, the Convict was engaged in construction business. His behaviour in the Jail is reported to be 'satisfactory'. The Probation Officer has also reported that the Convict visits temple and listens to '*bhajans*' and daily news. However, on account of his prevailing health conditions, he is unable to carry out his daily routine/activities properly. Further, due to his frail health, the Convict is also not able to do any work in Jail.

20. It is further reported that he has one brother and three sisters. His wife who is aged 75 years is also stated to be seriously ill having difficulty in movement on account of her illness. His family comprises of his son and two married daughters.

21. As per the medical report of the Convict received from the Chief Medical Officer In-charge, Central Jail No.4, Tihar Jail, New Delhi, the Convict is reported to be "*known case of hypertension, lumbar Spondylitis, left side DNS, IMSC left eye, BPH (Benign Prostatic Hypertrophy), recurrent dyselectrolytemia with*

Hyponatremia, Parkinson's diseases, syncopal dizziness, weight loss, constipation, on and off toothache, xerotic eczema, for which he has been under regular treatment from doctor on duty, Jail visiting specialists, GTB hospital, Safdarjung Hospital, Guru Nanak Eye Centre and Maulana Azad Institute of Dental Sciences." It is also reported that the inmate was also admitted at Safdarjung Hospital multiple times in the recent past in view of deranged sodium level with known case of Hypertension / parkinson's disease / AKI (resolved)/Hypokalemia (resolved) / LRTI (Lower Respiratory Tract Infection.)

22. The Psychiatric & Psychological Evaluation Report of the Convict reveals that he is under treatment from Department of Medicine, Urology and Neurology at Safdarjung Hospital and has been prescribed anti depressive and sleep medicines. It is further reported that he otherwise does not show any signs and symptoms of mental illness and does not require any psychiatric intervention at present.

Analysis and Findings

23. In *Machhi Singh vs. State of Punjab (Supra)*, the Hon'ble Apex Court held that the following propositions emerge from the guidelines laid down in the case of *Bachan Singh's* case (Supra) :-

(i) the extreme penalty of death need not be inflicted except in gravest cases of extreme culpability.

(ii) Before opting for the death penalty the

circumstances of the 'offender' also require to be taken into consideration along with the circumstances of the 'crime'.

(iii) Life imprisonment is the rule and death sentence is an exception. In other words death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided, and only provided the option to impose sentence of imprisonment for life cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances.

(iv) A balance sheet of aggravating and mitigating circumstances has to be drawn up and in doing so the mitigating circumstances has to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised.

In order to apply these guidelines inter-alia the following questions may be asked and answered:

(a) Is there something uncommon about the crime which renders sentence of imprisonment for life inadequate and calls for a death sentence?

(b) Are the circumstances of the crime such that there is no alternative but to impose death sentence even after according maximum weightage to the mitigating circumstances which speak in favour of the offender?

24. More recently in the case of *Vikas Chaudhary vs. The State of Delhi (Supra)*, Hon'ble Supreme Court, as aforesaid, directed as under:

“Whenever the state proposes and urges for imposition of death sentence, it has to, per force provide material to facilitate the court to carry out the exercise of balancing the aggravating factors with the mitigating circumstances – the test propounded in Bachan Singh and examined in many cases; the recent trend being that the reformatory element acquires equal attention. The obligation to carry out this balancing interest is upon the courts imposing the sentence in the first instance, i.e., the trial courts; the prosecution (per Bachan Singh) is also under an obligation to show that the mitigating circumstances are absent especially that there are no chances of reformation of the accused.”

25. From the material available on record and submissions of learned Defence Counsel, learned Public Prosecutor and Learned Counsel for Complainant, the following aggravating and mitigating factors emerge in the present case:-

Aggravating factors:-

- i) Murder of two innocent persons by burning them in presence of their family members;
- ii) Inflicting of injuries and the resultant continuing trauma of the survivor victims i.e. PW-11, PW-12 & PW-13 and destruction of their house and belongings by the mob, of

- which the Convict was a member during rioting;
- iii) Targeting of male members of a particular community only;
 - iv) Conviction in a similar case by the Hon'ble High Court where five (05) persons were murdered by a mob of which the Convict was held to be the leader.

Mitigating factors:-

- i) The Convict is already undergoing life imprisonment for the rest of his life in terms of the judgment dated 17.12.2018 of the Hon'ble High Court in a similar case [i.e. *Sajjan Kumar vs. State (Supra)*];
- ii) Convict is about 80 years old and suffering from hypertension, lumbar Spondylitis, left side DNS, IMSC left eye, BPH (Benign Prostatic Hypertrophy), recurrent Dyselectrolytemia with Hyponatremia, Parkinson's diseases, Syncopal dizziness, Weight loss etc.
- iii) His wife aged 75 years is also reported to be bed ridden on account of illness;
- iv) Convict has roots in the society;
- v) Nothing adverse has been reported about his behaviour and his conduct has been found to be 'satisfactory' as per Report of Jail Authorities.

26. From the rulings of the Hon'ble Apex Court cited in the course of arguments, it is apparent that the law on the aspect of quantum of sentence in case of conviction in case under Section 302 IPC is fairly

well settled. The dictum of Hon'ble Apex Court has been that death penalty is to be awarded only in the 'rarest of rare cases' and in order to assess whether the particular case falls in this category, the court has to weigh the aggravating and mitigating circumstances. It is also trite law that post amendment in the Code in 1955 and as laid down in the various rulings of Hon'ble Superior Courts, death penalty is an exception, while imprisonment for life is the general rule.

27. Section 393 (4) BNSS (corresponding to Section 354(3) Cr.PC) provides that when the conviction is for an offence punishable with death or, in the alternative, with imprisonment for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence.

28. Guided by the aforesaid statutory provision and the relevant case law on the subject, it is thus necessary in order to decide the quantum of sentence, to scrutinize the entire facts and circumstances of the case, the aggravating and mitigating circumstances and the nature of offence proved to have been committed by the above named Convict.

29. The facts of the present case reveal that the offences proved to have been committed by the above named Convict are undoubtedly brutal and reprehensible. At the same time, there are certain mitigating factors which, in my opinion, weigh in favour of imposing a lesser sentence, instead of death penalty. The 'satisfactory' conduct of

the Convict as per the report of the Jail Authorities, the ailments from which he is reportedly suffering, the fact that the Convict has roots in the society and the possibility of his reformation and rehabilitation are material considerations which, in my opinion, tilt the scales in favour of sentence for life imprisonment instead of death penalty.

It must also be borne in mind that the incident in question is part of the same incident and can be said to be a continuity of the incident for which the Convict herein has been sentenced to life imprisonment by the Hon'ble High Court vide its judgment 17.12.2018, where he was found guilty of having caused the death of five (05) innocent persons during the similar incident of rioting post the assassination of Smt.Indira Gandhi, then Prime Minister of the country.

Though the killings of two innocent persons in the present case is no less an offence, however, the above noted circumstances, in my opinion, do not make this a 'rarest of rare case' warranting imposition of death penalty for the offence punishable under Section 302 r/w Section 149 IPC.

30. Further, it has been proved from the evidence on record that the convict was a member of the mob which also set the house of the victims ablaze during the incident of rioting which occurred on 01.11.1984. The depositions of PW-11, PW-12 & PW-13 to this effect has been found to be reliable and they even remained un-controverted inasmuch as the defence did not cross-examine these witnesses in respect of their depositions whereby they proved that their house at Raj Nagar, Delhi was set on fire by the said mob. The Convict has

accordingly been also held guilty for having committed the offence under Section 436 r/w 149 IPC besides other offences, as aforesaid. Section 436 IPC provides for a punishment of imprisonment for life or imprisonment of either description for a term which may extend to ten years in addition to fine.

31. From the evidence on record, it has been established that the victims in the present case not only witnessed the brutal killings of their family members at the hands of the rioting mob which the Convict was a part of, but they were also witness to the burning and destruction of their dwelling house and looting of their belongings. The helplessness of the victims and the lack of any support whatsoever from the neighbours and also the police has also been established from their un-controverted depositions. In these circumstances, I am of the considered opinion that this is a fit case where the Convict must also be awarded life imprisonment for the offence punishable under Section 436 IPC r/w Section 149 IPC in addition to fine.

32. It has also been proved that PW-12 sustained deep wounds requiring as many as fifteen (15) stitches on her scalp and PW-11 also sustained multiple injuries including head injuries requiring many stitches and contusions all over her body. In view thereof, the Convict is also being awarded Rigorous Imprisonment for 07, years in addition to fine, as per latter Part of Section 308 IPC.

33. Thus, having regard to the totality of facts and circumstances

of the case and the submissions made, I am of the opinion that interest of justice would be served if Convict *Sajjan Kumar S/o Ch.Raghunath Singh* is sentenced as under:-

- a) For the offence punishable **under Section 147 IPC**, the above named Convict is directed to undergo Rigorous Imprisonment for a period of **02 years** in addition to payment of fine of **Rs.5000/-**. In default of payment of fine, he shall undergo Simple Imprisonment for **03 months**.
- b) For the offence punishable **under Section 148 IPC**, the above named Convict is directed to undergo Rigorous Imprisonment for a period of **03 years** in addition to payment of fine of **Rs.5000/-**. In default of payment of fine, he shall undergo Simple Imprisonment for **03 months**.
- c) For the offence punishable **under Section 302 IPC r/w Section 149 IPC**, the above named Convict is directed to undergo Rigorous Imprisonment **for life** in addition to payment of fine of **Rupees One Lakh**. In default of payment of fine, he shall undergo Simple Imprisonment for **02 years**.
- d) For the offence punishable **under Section 308 IPC r/w Section 149 IPC**, the above named Convict is directed to undergo Rigorous Imprisonment for a period of **07 years** in addition to payment of fine of

Rs.10,000/-. In default of payment of fine, he shall undergo Simple Imprisonment for **06 months**.

- e) For the offence punishable **under Section 323 IPC r/w Section 149 IPC**, the above named Convict is directed to undergo Rigorous Imprisonment for a period of **01 year** in addition to payment of fine of **Rs.1000/-**. In default of payment of fine, he shall undergo SI for **01 month**.
- f) For the offence punishable **under Section 395 IPC r/w Section 149 IPC**, the above named Convict is directed to undergo Rigorous Imprisonment for a period of **10 years** in addition to payment of fine of **Rs.10,000/-**. In default of payment of fine, he shall undergo Simple Imprisonment for **06 months**.
- g) For the offence punishable **under Section 397 IPC r/w Section 149 IPC**, the above named Convict is directed to undergo Rigorous Imprisonment for a period of **07 years**.
- g) For the offence punishable **under Section 427 IPC r/w Section 149 IPC**, the above named Convict is directed to undergo Rigorous Imprisonment for a period of **02 years** in addition to payment of fine of **Rs.5000/-**. In default of payment of fine, he shall undergo Simple Imprisonment for **03 months**.
- h) For the offence punishable **under Section 436 IPC**

r/w **Section 149 IPC**, the above named Convict is directed to undergo Rigorous Imprisonment **for life** in addition to payment of fine of **Rupees One Lakh**. In default of payment of fine, he shall undergo Simple Imprisonment for **02 years**.

- i) For the offence punishable **under Section 440 IPC r/w Section 149 IPC**, the above named Convict is directed to undergo Rigorous Imprisonment for a period of **05 years** in addition to payment of fine of **Rs.5000/-**. In default of payment of fine, he shall undergo SI for **03 months**.

34. All the above sentences shall run concurrently. The Convict shall be entitled to benefit of Section 468 BNSS (Section 428 CrPC). It is further directed that the aforesaid fine as imposed on the Convict be paid to the victims in equal proportion towards compensation, upon being deposited by the Convict.

35. Additionally, even though any amount of monetary relief may be wholly inadequate, even after 41 years of the incident, to compensate for the pain and sufferings of the survivors in the present case, I recommend payment of such compensation to these victims as per provisions of Section 396 BNSS (Section 357A Cr.PC) under the Victim Compensation Scheme, as the Delhi State Legal Services Authority (DSLISA) may, after due enquiry, deem adequate. Let a copy of the judgment and order on sentence be sent to Ld. Secretary DSLISA, Central District for necessary action.

36. Copy of the order on sentence be supplied to the Convict free of cost. A copy of this order be also given to learned Addl. PP for the State.

37. File be consigned to Record Room.

**Announced in open court
on 25 day of February, 2025**

**(Kaveri Baweja)
ASJ/Special Judge (PC Act),
CBI-09 (MPs/MLAs Cases),
RADC, New Delhi : 25.02.2025**