

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

Judgment delivered on : November 02, 2015

+ BAIL APPLN. 1044/2015

KAMAL

..... Petitioner

Through: Mr.Tushar Sinha and Mr.Pankaj
Sinha, Advocates.

versus

STATE OF NCT (DELHI)

..... Respondent

Through: Mr.G.M.Farooqui, Additional Public
Prosecutor for the State.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. The petitioner has filed the present bail application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 for seeking bail in a case registered under FIR No.766/2013 dated 26.10.2013, under Section 308/34 of Indian Penal Code, Police Station Govindpuri, Delhi.

2. The State has filed its status report and according to the status report the FIR was registered on the statement of Shri Bhajan Singh S/o Shri Surjeet Singh R/o House No.503, Sardar Mohalla, Tughlakabad Village, New Delhi and during the investigation two

accused Honey and Rohit were arrested and the petitioner was absconding. It was only after issuance of non bailable warrant against the present petitioner/accused on 26.10.2013, the petitioner was arrested on 10.09.2014 by the local police of P.S. Badarpur, Delhi. It is further submitted in the status report that as per SCRB report, the petitioner is involved in many other criminal cases. It is further submitted that only two witnesses have been examined and the next date fixed before the trial court is 15th, 16th and 18th January 2016.

3. The petitioner had also moved the bail application before the learned Additional Sessions Judge-02/SE/ND, which was dismissed vide order dated 24th February 2015, which is impugned in the present petition. Rejection of the bail was primarily on the ground that the statement of complainant was yet to be recorded. The learned Additional Sessions Judge-02/SE/ND did not find any ground to take a different view than the view taken by the learned predecessor of the court on 3rd January 2015.

4. Mr.Tushar Sinha, Advocate appears on behalf of the petitioner and submits that the petitioner has been falsely implicated in this case. Learned counsel for the petitioner further submits that the petitioner/applicant is in custody since 08.03.2015. Counsel for the

petitioner further contended that the other co-accused namely Honey and Rohit have already been granted bail vide order dated 27.11.2013 and on the ground of parity the applicant/petitioner should have been granted bail in the present case. Counsel for the petitioner further contended that there are no specific allegations against the applicant and the complainant is not having good relations with the applicant and out of the grudge and to take revenge from the applicant, the petitioner has been falsely implicated in this case. Counsel for the petitioner also took the ground of delay of one month and fifteen days in registration of the FIR.

5. To oppose the contentions raised by learned counsel for the petitioner, Mr. G.M.Farooqui, learned Additional Public Prosecutor for the State submitted that the order passed by the learned Additional Sessions Judge is a well reasoned order and does not call for any interference by this Court. Learned Additional Public Prosecutor for the State further contended that the present petitioner/ accused was absconding in the present case and he could only be arrested after obtaining non-bailable warrant against him. Therefore, the applicant/petitioner is not entitled to seek parity to the bail granted to the co-accused.

6. I have heard the submissions made by learned counsel for the petitioner/applicant and the learned Additional Public Prosecutor for the State. After considering the contents of the present petition as well as the submissions made by learned APP for the State and on perusal of the impugned order, this Court is inclined to grant bail to the petitioner - Kamal. Accordingly, the petitioner/accused Kamal is admitted to bail subject to his furnishing personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Trial Court. The petitioner is directed not to influence the prosecution witnesses or tamper with the evidence and shall not leave the country without prior permission of the Court concerned.

7. With aforesaid directions, the present application is disposed of. However, it goes without saying that any observation made in the aforesaid order shall not affect the merits of the case.

(P.S.TEJI)
JUDGE

NOVEMBER 02, 2015
pkb