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

+ **BAIL APPLN. 1243/2015**

MOHSIN

..... Petitioner

Through: Mr.Anurag Jain, Advocate.

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Mr.M.P.Singh, APP.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **09.07.2015**

Crl M.A No. 9014/2015

Exemption allowed, subject to all just exceptions.

Application is allowed, accordingly.

BAIL APPLN. 1243/2015

The Petitioner seeks Bail in anticipation of his arrest in connection with Malviya Nagar PS case no. 329 dated 19.02.2015, instituted under section 392/34 IPC.

One Muhammed Mia lodged a complaint alleging that he was assaulted by Shakil Ahmed (father of the petitioner), Petitioner and his cousin on 19.02.2015, and was divested of his gold chain and locket.

The complaint claims to be a mechanic. Shakil Ahmed, father of the Petitioner, had gone to him for repair of his vehicle. On learning the cost of

repairs, the complainant was assaulted. He is also alleged to have been robbed of his gold chain and locket.

Learned counsel for the Petitioner submits, that the Petitioner has been falsely implicated. The cousin of the Petitioner, namely Salman who is a taxi driver by profession, had given his car, bearing no. DL-8CH-4854, to the complainant for repairs and had paid Rs. 5,000/- for purchase of spare parts. The complainant did not repair the car and was not even ready for return of Rs. 5,000/-. In fact the brother and his cousin were manhandled and only with the intervention of local residents that they could be saved.

It has further been submitted on behalf of the Petitioner that one FIR bearing no 331/2015 (PS Malviya Nagar) has been instituted at the instance of the cousin of the Petitioner against the complainant of the present case for offences under sections 308/452/34 of the IPC.

The complainant of the present case has been granted anticipatory bail by a bench of this court in bail application number 479/2015, vide order dated 09.04.2015.

From the perusal of the FIR itself it would appear that no case of robbery is made out. The mere fact that the cousin of the Petitioner is a taxi driver whereas the complainant is a car mechanic, the allegation of robbery appears to be doubtful. The allegation appears to have been conjured up for giving a serious colour to the case.

The status report which is on record has been perused. One of the witnesses of the case, namely Sharik, has given a statement under section 161 CrPC, alleging threatenings to him. Consequently, section 195A IPC has also been added to the FIR.

The status report further reveals that the Petitioner has not joined the investigation and non-bailable warrant has been issued against him.

Looking at the circumstances of the case as also the counter allegation by the counsel of the Petitioner, this Court is of the opinion that no useful purpose would be served by arresting the Petitioner at this stage.

Accordingly, this application is allowed.

In case of arrest, the Petitioner shall be released on bail upon furnishing bond in the sum of Rs. 25,000/- with two sureties of the like amount to the satisfaction of the arresting officer/IO of the case. This order is subject to the Petitioner joining the investigation and cooperating with the police.

Dasti.

ASHUTOSH KUMAR, J

JULY 09, 2015

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