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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 20.08.2015

+ BAIL APPLN. 1576/2015

LAV KUSH

..... Applicant

Through Mr. Brahm S.Nagar, Advocate

versus

STATE

..... Respondent

Through Mr. M.S. Oberoi, Advocate
SI Ashok, DIU/SD
Mr. Rakesh Tikku, Sr. Advocate with
Mr. Harsh Sethi and Mr. Sumit
Tanwar, Advs. for the complainant

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is a petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No. 470/2015 under Sections 452/506/336/34 IPC registered at Police Station Fatehpur Beri, Delhi.
2. The applicant has been in judicial custody since 8th July, 2015. It is an admitted case that the applicant had not been named in the subject FIR. It is further admitted that on a complaint filed by one Satbir Singh Tanwar, the subject case was registered against the six accused persons named in the FIR

namely Jai Bhagwan, Sanjay Bhatti, Sumit Bhatti, Akshay Bhatti, Anil Choudhary and Himanshu. Along with them, fifteen unknown persons are alleged to have perpetrated the offence.

3. The registration number of one of the vehicles used in the commission of the alleged offence was flashed by the police. The applicant was arrested while driving that vehicle on the date of the incident.

4. Mr. Brahm S. Nagar, learned counsel appearing on behalf of the applicant states that the applicant is employed as a driver by Sanjay Bhatti, one of the named accused in the subject FIR, and had nothing to do with the assault on the complainant.

5. Mr. Nagar, learned counsel therefore urges that he has been arrested in the subject FIR only on account of the circumstance that he was driving the offending vehicle and all the other allegations in the subject FIR do not apply to him.

6. Mr. M.S. Oberoi, learned counsel appearing on behalf of the State fairly concedes that upon investigation, it has been revealed that the applicant is an employee of Sanjay Bhatti as a driver. Mr. Oberoi further states that the applicant has been employed as a driver with the prime accused in the subject FIR for the last three years.

7. An affidavit of Smt. Saroj Bhatti, mother of Sanjay Bhatti has been tendered in Court certifying the fact that the applicant is employed with her and her family for the past three years. The same is taken on record.

8. A certificate has also been placed on record issued by Shri Dharampal Bhati, Vilalge Pradhan, Gram Panchayat Surajpur, Village Bisrakh, Greater Noida, Dist. Gautam Budh Nagar, U.P. stating that the applicant is living in the house of Mr. Manoj Bainsla for the last three years and he is working as a driver of Sanjay Bhatti.

9. Mr. Rakesh Tiku, learned senior counsel appearing on behalf of the complainant in the subject FIR does not refute this position in view of the status report filed on behalf of the Police.

10. In the present case, it is observed that the applicant is not wanted in any other case.

11. There is neither any hint nor allegation that the applicant shall approach the witnesses in the subject FIR or that he will tamper with the evidence. The socio-economic status of the applicant who belongs to a small village in Uttar Pradesh does not give rise to any apprehension in this behalf.

12. In view of the aforesaid facts and circumstances, the present bail application is allowed.

13. The applicant shall be released on bail in the subject FIR, subject to the following conditions:-

- (1) that he shall furnish a personal bond in the sum of Rs.20,000/- with one local surety in the like amount to the satisfaction of the trial Court;
- (2) that the applicant shall remain present before the trial court on all the dates fixed for hearing by that Court; and
- (3) that he shall not meet the witnesses and tamper with the evidence.

14. With the above said directions, the present bail application is disposed of.

15. Copy of this order be given *dasti* to counsel for the parties under the signature of the Court Master.

AUGUST 20, 2015/sd

SIDDHARTH MRIDUL, J