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

Judgment delivered on: 19th October, 2015

+ **BAIL APPL. NO.1945/2015**

CHETAN SHARMA @ HONEY

..... Petitioner

Represented by: Mr. Maninder Singh, Mr. Vivek
Kumar Chaudhary and
Mr. Ajay Kumar Pipaniya,
Advocates.

Versus

STATE

..... Respondent

Represented by: Mr. Sudershan Joon, Additional
Public Prosecutor for the State.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

Crl. M.A. No.15492/2015 (for restoration)

1. Vide the instant application, the applicant/petitioner seeks restoration of the petition noted above by recalling the order dated 13.10.2015, whereby the same was dismissed in default.
2. Keeping in view the averments made in the instant application and the submissions made by learned counsel for the applicant, the same is allowed.
3. Consequently, Bail Application No.1945/2015 is restored to its original number.
4. The application stands disposed of.

BAIL APPLN. 1945/2015

1. With the consent of the learned counsel for the parties, the present petition is taken up for disposal.
2. Vide the present petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner seeks bail in case bearing FIR No. 254/2015 registered at Police Station Patel Nagar, Delhi, for the offences punishable under Sections 363/364A/482/467/468/471/120B/34 IPC.
3. Learned counsel appearing on behalf of the petitioner submits that allegedly three accused were involved in the present case, one was a Sikh person and two were Hindus including the petitioner. The victim, namely, Dhruv Goel, aged about 11 years was kidnapped on 21.03.2015 at about 10.00 PM, however, he himself returned home in the morning of 22.03.2015 at about 5.45 AM. In his statement under Section 161 Cr.P.C., he stated that a silver coloured Innova came and person sitting therein enquired his address and thereafter they caught him and forced to sit in the car. Among them, the person who was driving the car was a Sikh and two more persons wearing monkey caps were sitting inside the car.
4. Learned counsel further submits that the Sikh person who was driving the car was Amandeep Singh Kohli, who had already been released on bail by the learned Additional Sessions Judge, Delhi, vide order dated 09.07.2015. Whereas the bail application of the petitioner was dismissed vide order dated 29.07.2015.
5. Learned counsel submits that statement of Dhruv, alleged victim, was also recorded under Section 164 Cr.P.C. Even in the said statement, he neither named the petitioner nor identified him. Two mobile phones

bearing Nos.9560582207 and 8447183270 alleged to have been used in the crime have also not been recovered and the petitioner was maintaining mobile bearing No.9999800687, which has never been used in the crime. Moreover, the Investigating Officer has not determined the location of the said phone to ascertain whether the petitioner was near about the spot on the alleged date and time.

6. He submits that earlier bail application of the petitioner was dismissed on the ground that the petitioner had procured a mobile sim on the forged documents whereas the co-accused, namely, Amandeep Singh Kohli, who was identified by the victim, had already been released on bail. The police was not able to connect the petitioner with the crime and the petitioner also seeks parity with other co-accused.

7. Learned counsel for the petitioner has informed this Court that vide order dated 16.10.2015, the learned Additional Sessions Judge, has dropped the charges for the offence punishable under Section 364-A IPC in the present case. Thus, the present petition may be allowed.

8. On the other hand, learned Additional Public Prosecutor appearing on behalf of the State submits that name of the petitioner was disclosed by one of the informer and accordingly, the petitioner was arrested in this case. The petitioner is the main person, who kept the child forcibly in the vehicle and tied his hands. He was wearing monkey cap, therefore, the child could not identify him. However, the child identified one Sikh person Amandeep Singh Kohli. The allegations against the petitioner are very serious in nature; therefore, his petition may be dismissed.

9. It is not in dispute that phone No.9999800687 belonging to the petitioner has not been used in the crime. Moreover, it is not alleged that the mobile sim procured by the petitioner on forged documents was used

in the crime. The victim has identified Amandeep Singh Kohli, who was released on bail vide order dated 09.07.2015. The petitioner is in custody since 25.03.2015. Moreover, the charge under Section 364-A IPC has been dropped in the present case.

10. Thus, in view of the above noted facts, without commenting upon the merits of the case, I am of the considered opinion that the petitioner has made out his case for bail.

11. Accordingly, the present petition is allowed. The petitioner shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the learned Trial Court.

12. A copy of this order be given *dasti* to the learned counsel for the parties.

**SURESH KAIT
(JUDGE)**

OCTOBER 19, 2015
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