

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Judgment delivered on : December 02, 2015

+ BAIL APPLN. 2555/2015
MOHD. MOIN @ MUNNA Petitioner
Through: Mr.Urooj A. Khan & Mr.Atul
Chaturvedi, Advocates.
versus

STATE (NCT OF DELHI) Respondent
Through: Ms.Manjeet Arya, Additional Public
Prosecutor for the State with Sub-
Inspector Joginder, PS Gandhi Nagar.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. Aggrieved by the order dated 19.11.2015, passed by the learned Special Judge 03, Karkardooma, Delhi, vide which the bail application filed by the present petitioner has been rejected, the petitioner has preferred 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.0658/2015 under Section 387 of Indian Penal Code, Police Station Gandhi Nagar, New Delhi.

2. The prosecution case is based on the complaint of one Jai Kumar Jain, who runs the business of pant and shirt from Shop No.6745/6719, Janta Gali, Gandhi Nagar, Delhi – 110031 in the name

and style of J.K. Jain Hosiery and Trading House Brand (Sparky), and stated in his statement that on 13.10.2015, one rickshaw puller – Yameen, who used to bring and take material from his shop for the last 6-7 months came to his show and gave one envelope, wherein it was written that he has to pay Rs.5 crore and in case of refusal, his children Timmy and Anju and their son will be killed. It is further stated in complaint that he will also be killed in case this information is given to any other person or to the police. In the said letter, the reference of house, shop and farm house of the complainant were also mentioned. The complainant was asked to send Rs.5 crore in the same rickshaw after putting the money in a cartoon and not to follow the rickshaw. Thereafter, the complainant came to the police station alongwith the said letter and the case was registered.

3. Mr. Urooj A. Khan, counsel for the petitioner argued that the petitioner is named in the present case at the instance of co-accused Niyazul with malafide intention and ulterior motive to send the petitioner behind the bar and ruin the image of the petitioner in front of the complainant, as the petitioner has long standing business relations for the last 10-15 years with the complainant. It is also

contended on behalf of the petitioner that during the course of investigation, the rickshaw puller Yameen had refused to identify the petitioner and specifically told the police that the sender was some other person and not the person brought before him, i.e., the petitioner. One Niyazul who also works for the complainant, was missing and he belongs to the same village as that of the petitioner. The police went to the native village of Niyazul and at the instance of the petitioner, he was arrested. During interrogation, Niyazul stated that he falsely disclosed the name of the petitioner as an accused in the present case. It is also contended on behalf of the petitioner that the petitioner is in business relation with the complainant and for the said purpose the petitioner is running a factory in which about 100 employees are working, therefore there is no question that he will commit such an offence against the person with whom he is working and earning his bread and butter. According to the counsel for the petitioner, the petitioner is a prospective candidate from the said Village and he intended to contest the just completed local bodies election in UP and the co-accused Niyazul is a member of the rival group of the local politics and that is why he has deliberately or at the

instance of the police disclosed the name of the petitioner just to harass and humiliate him. It is also urged that even as per the prosecution story the alleged demand letter was written in the handwriting of daughter of the co-accused Niyazul and not in the hand writing of the petitioner. It is also urged on behalf of the petitioner that the alleged demand letter has been seized by the police and the handwriting of the petitioner is also taken for matching the handwriting in the letter, however handwriting of the daughter of the co-accused Niyazul is yet to be taken and thereafter the same will be sent to FSL and it will take considerable time. It is further submitted on behalf of the petitioner that it is the petitioner who cooperated with the Investigating Officer from the very beginning and never tried to abscond or deviate the investigation in a wrong manner and it is petitioner only who had gone to the village of co-accused Niyazul in order to locate him and consequently he was arrested and brought to Delhi. It is also contended that the antecedents of the present petitioner are clean and clear and there is no case pending against him in any court of law and he has deep roots in the society and there is no chance that he will abscond in case he is released on

bail, therefore, the petitioner ought to be granted bail in the aforesaid case.

4. To support the aforesaid contentions, counsel for the petitioner placed reliance on the judgment of *Arnesh Kumar vs. State of Bihar and others*, 2014 (3) JCC and the order dated 24th March 2014, passed by this court in Crl. A. No.144/2006 titled as Tasim & Ors. vs. State, NCT of Delhi.

5. To oppose the contentions raised by learned counsel for the petitioner, Ms. Manjeet Arya, learned Additional Public Prosecutor for the State submitted that the petitioner is named by the co-accused Niyazul and the proceedings are at initial stage therefore the petitioner be not released on bail.

6. I have heard the submissions made by learned counsel for the petitioner and the learned Additional Public Prosecutor for the State and also gone through the material placed on record.

7. After considering the contents of the present petition as well as the submissions made by counsel for the petitioner and learned Additional Public Prosecutor for the State, this Court is of the opinion that in the alleged letter, threat to life of children of the complainant

as well as of the complainant was made, if money is not given to the accused and there is another letter also and the fact that the petitioner was the master mind of the case therefore, the petitioner does not deserve to be released on bail at this stage. The issue as to whether the rickshaw puller did not identify the present petitioner, the petitioner being falsely implicated in the present case and the petitioner being a prospective candidate from the Village to contest local bodies election in UP and the co-accused Niyazul being the member of rival group of local politics; the written demand letter was written by the present petitioner or not, are to be determined during trial. It is also the fact that the handwriting sample of the petitioner and the handwriting sample of daughter of the co-accused Niyazul were sent to FSL but the FSL report is still awaited. Since the trial is at initial stage therefore, the tampering of the evidence cannot be ruled out.

8. So far as the reliance placed in the case of *Tasim (supra)*, the observations made in the said judgment were made while deciding the appeal of the accused finally, however in the present case, the trial is at initial stage, therefore the reliance placed by the petitioner is of no substance at this stage.

9. With the above observations the bail application is dismissed. However expression of any opinion hereinbefore may not be treated as an expression on the merits of the case.

10. In view of the aforesaid facts and circumstances of the present case, this Court is of the opinion that the petitioner – Mohd. Moin @ Munna does not deserve the concession of bail in this case, at this stage. Accordingly, the present application filed by the petitioner – Mohd. Moin @ Munna is dismissed at this stage.

(P.S.TEJI)
JUDGE

DECEMBER 02, 2015
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