

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

Judgment delivered on : April 19, 2016

+ BAIL APPLN. 226/2016
MUJI-UR-REHMAN @ MUZIM @ MUJIB Petitioner
Through: Mr.Ashutosh Bhardwaj, Advocate.

versus

STATE

..... Respondent
Through: Mr.Rajat Katyal, Additional Public
Prosecutor for the State

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. By this petition filed under Section 439 of Cr. P.C., the petitioner seeks bail in a case registered as FIR No. 83/2011 under Section 395/397/412/342/506/34 of Indian Penal Code, at Police Station Special Cell, Delhi.

2. The present case was registered at the instance of Mr. Sanjay Kumar Verma (hereinafter referred to as the complainant), who stated in his statement that on 13.04.2011, at about 8 PM, two boys came to his shop and asked for gold chain and after few minutes 2-3 persons also entered in his shop and joined the two boys. According to him, two lady customers also visited at his shop at the time of incident. They were kept hostage by the said persons on the gun point and their

jewellery was robbed of. Thereafter, they forced the complainant to open safe locker and took ornaments weighing five and half kg gold and Rs.50-60 thousand cash and fled away. Accordingly the present case was registered and investigation was carried out by local police. During investigation, one monkey cap and one dagger was recovered from the spot, chance prints were also lifted by the crime team local police of outer district.

3. On 20.05.2011, four persons namely (1) Ranjit Bihari @ Ravinder @ Santosh @ Ravi, (2) Rohit Mangal, (3) Neeraj Pal and (4) Vijay Kumar were arrested. A Pulsar motor cycle Regn No.DL 10SA 9620 (Original Number DL-10SA-0781 stolen from Police Station Vijay Vihar), arms and ammunition which were used by the accused in the robbery were also recovered from their possession.

4. All the accused persons were arrested in this case on 21.06.2011 and during P.C. remand, 4 gold necklace, 8 lady gold rings, 4 teekas (forehead) gold, 4 gents ring gold, two ear rings (Jhumke) gold were also recovered at the instance of accused persons. All the accused persons disclosed their involvement in the commission of the crime.

5. The present petitioner was arrested by ARC/Crime Branch, Shakar Pur, in another case being FIR No. 221/11 under Section 25 of Arms Act and one country made pistol alongwith three live cartridges were also recovered from his possession. In his disclosure statement, the petitioner has disclosed his involvement alongwith his associates Ranjit Bihari, Rohit, Neeraj and Vijay in the present case of dacoity on

13.04.2011. the petitioner also disclosed that it was the same arms and ammunition which were used by him in the present case, therefore, he was arrested in the present case on 26.08.2011 and since then, he is in judicial custody.

6. Mr. Ashutosh Bhardwaj, learned counsel for the petitioner contended on behalf of the petitioner that the petitioner is in custody for the last about four and half years and there are many witnesses left to be examined in the present case. However, all the material public witnesses have been examined and they have not identified any of the accused of the present case. On merits, it is contended that perusal of the charge sheet, it is clear that no investigation was carried out by the Investigating Officer of the present case regarding the allegations which were levelled by the complainant in his complaint. Lastly, it is contended that the investigation is complete, charge sheet in this case has been filed and material public witnesses have been examined and the trial may take time to conclude, therefore, the petitioner ought to be granted bail in the present case.

7. Mr. Rajat Katyal, Additional Public Prosecutor appearing on behalf of State submitted that PW-1 in his examination in chief has very clearly specified the manner in which the incident took place and not only this, he has also identified all the accused persons and explained their specific roles in the commission of the crime. And the learned Additional Session Judge while considering the bail application filed by the present petitioner has considered the facts and

circumstances and thereafter rejected the bail application vide order dated 09.11.2015. Therefore, it is urged that in the facts and circumstances of the present case the petitioner ought not to be granted bail.

8. I have heard the submissions made by learned counsel for the petitioner and the learned Additional Public Prosecutor for the State. I have also gone through the depositions of public witnesses as well as of the complainant and also perused the material placed on record. After hearing the submissions made by counsel appearing for both the sides, this Court observes that the investigation in this case has been completed, charge sheet has been filed and there are many witnesses whose statements are yet to be recorded.

9. In ***Prasanta Kumar Sarkar v. Ashis Chatterjee* (2010) 14 SCC 496**, the Hon'ble Supreme Court dealt with the basic principles laid down in catena of judgments on the point of granting bail. The Court proceeded to enumerate the factors:

9. ... among other circumstances, the factors [which are] to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
- (ii) nature and gravity of the accusation;*
- (iii) severity of the punishment in the event of conviction;*

- (iv) *danger of the accused absconding or fleeing, if released on bail;*
- (v) *character, behaviour, means, position and standing of the accused;*
- (vi) *likelihood of the offence being repeated;*
- (vii) *reasonable apprehension of the witnesses being influenced; and*
- (viii) *danger, of course, of justice being thwarted by grant of bail.*

10. Apart from the aforesaid, this Court further observes that there is a recovery of one country made pistol alongwith three live cartridges (in FIR No. 221/11, Police Station Shakarpur, ARC) and one rexin bag which was taken by the petitioner at the time of committing dacoity in the present case and the complainant has also identified the petitioner.

11. Considering the aforesaid facts and circumstances of the present case; the fact that the case is pending trial; the petitioner is charged with heinous offence punishable under Section 395/397/412/342/506/34 of IPC; and there is recovery of one country made pistol alongwith three live cartridges (in FIR No. 221/11, Police Station Shakarpur, ARC) and one rexin bag which was taken by the petitioner at the time of committing dacoity, this Court is not inclined to grant bail to the petitioner at this stage.

12. Resultantly, in the considered opinion of this court, the facts emerging from the record culminates into dismissal of the present bail

application. Accordingly, the present bail application filed by the petitioner is dismissed at this stage.

13. Before parting with the order, this Court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

14. With aforesaid direction, the present bail application, filed by the petitioner stand disposed of.

(P.S.TEJI)
JUDGE

APRIL 19, 2016
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