

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Judgment delivered on : March 15, 2016

+ BAIL APPLN. 103/2016
HARPAL SHARMA

..... Petitioner

Through: Mr. Deepak Prakash, Mr. Vishal
Somany, Mr. Karri Venkata Reddy and
Ms. Shruti Srivastava, Advocates.

versus

THE STATE OF NCT DELHI

..... Respondent

Through: Mr. Amit Chadha, Additional Public
Prosecutor for the State.

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

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P.S. TEJI, J.

1. The present petition under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.), has been filed by the petitioner for seeking bail in a case registered as FIR No. 232/2015 under Sections 395/397/412/342/458 of Indian Penal Code, at Police Station Maurya Enclave, Delhi.

2. The prosecution case is based upon the statement of one Rajpal, who was working as a Security Guard at Liquor Shop at Pitampura, Delhi. It is alleged that on 13.03.2015, at about 2.30 am three boys came there and one of them placed a knife on his neck and threatened him to kill him if he raised alarm. It is further stated by the

complainant that one of them pressed his mouth and the other boy caught hold of his hands and forcibly took him inside the liquor shop, where he found that 5 more boys were present. When police siren rang, all the eight boys fled away and while fleeing from the spot, a mobile phone of one of those boys fell down, which resulted in apprehension of the accused persons.

3. The FIR in question was registered, investigation started and during investigation, statements of witnesses were recorded, evidence was collected, a mobile phone was recovered and after procuring details of the said mobile phone, it was revealed that the same was in the name of the petitioner. The other co-accused Hari Singh revealed about his involvement in the commission of crime and also named his associates including the petitioner herein. Petitioner surrendered before the police and on identification by the complainant – Rajpal, he was arrested. After completion of investigation, charge sheet was filed.

4. Mr. Deepak Prakash, learned counsel appearing on behalf of the petitioner contended that the petitioner is a driver by profession and has never been involved in any criminal offence and his antecedents are clear. It is further contended that the name of the petitioner was not mentioned in the FIR, however upon search of his lost mobile, he was arrested in the present case and is in judicial custody since 22.03.2015. It is further contended that the petitioner has also lodged a complaint bearing SO No.430/2014 regarding theft of his phone in Police Station Crime Branch, Delhi on 14.03.2015.

5. Counsel for the petitioner further contended that the other co-accused in this case namely, Mr. Manoj Singh, Yogender Singh and Hari Singh have already been released on bail in the present case but the learned Additional Sessions Judge vide order dated 08.01.2016 has dismissed the third bail application of the petitioner. The petitioner seeks parity with the other co-accused in the present case. It is contended on behalf of the petitioner that the charge sheet in this case has been filed and there is no chance of tampering with the evidence. Lastly, it is urged that the petitioner is the only earning member in his family who is working as a driver and has a family comprising his wife, children and old aged parents, and nobody is there to look after them, therefore the petitioner ought to be granted bail in the present case.

6. Mr. Amit Chadha, learned Additional Public Prosecutor for the State submitted that the case of the petitioner is on a different footing, as the recovered mobile from the site belongs to the petitioner therefore, he cannot seek parity with the other co-accused persons.

7. The submissions and counter submissions made by learned counsel for the petitioner as well as by learned Additional Public Prosecutor for the State have been heard and perused the material placed on record.

8. After considering the contents of the present petition as well as the status report filed on record, this Court observes that the petitioner is in custody since 22.03.2015 and the other accused persons namely, Mr. Manoj Singh, Yogender Singh, Hari Singh have already released

on bail. Charge sheet in this case has been filed and the same is now fixed for framing of charge.

9. This Court also observes that the petitioner was identified by the complainant. It is also admitted case of the State that the co-accused in the present case are either on bail or they have obtained interim protection in this case.

10. From the aforesaid facts and circumstances of the case, this Court take note of the facts that the co-accused – namely, Mr. Manoj Singh, Yogender Singh and Hari Singh in the present case have already granted bail; the petitioner is in custody since 22.03.2015 and; charge sheet in the present case has already been filed, therefore the petitioner is no more required for further investigation and the trial is likely to take time.

11. Considering the aforesaid facts and circumstances, this Court is inclined to grant bail to the petitioner – Harpal Sharma in the present case subject to his furnishing personal bond in the sum of Rs.20,000/- with two sureties of the like amount, to the satisfaction of the Trial Court.

12. 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.

13. With aforesaid direction, the present bail application as well as pending applications, filed by the petitioner stand disposed of.

14. Dasti.

P.S.TEJI, J

MARCH 15, 2016

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