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

+ **BAIL APPLN. 192/2016**

ALI SHER

..... Petitioner

Through: **Mr.R.M. Tufail and Mr.Vishal Raj
Sehijpal, Advocates.**

versus

STATE OF NCT OF DELHI

..... Respondent

Through: **Mr.Amit Ahlawat, APP for the State**

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

27.04.2016

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1. The petitioner is seeking regular bail in case FIR No.159/2011 under Sections 364-A/347/323/34 IPC PS Bhalswa Dairy, Delhi.

2. Mr.R.M.Tufail, learned counsel for the petitioner has submitted that the petitioner is in judicial custody since 24.05.2013. It is a case where one Lalit, who is an adult married person, was allegedly abducted for ransom. The petitioner has not been identified by the PW Lalit during trial and his bail has been mainly denied on the ground of his criminal antecedents.

3. Mr.Amit Ahlawat, learned APP for the State has strongly opposed the prayer of the petitioner in view of the nature and gravity of the offence as well on the ground that the petitioner was declared proclaimed offender in this case and he had been arrested in this case after about twenty months. Even rewards were announced for tracing him and reward amount was initially for ₹10,000/- and then enhanced to ₹50,000/-. It is further

submitted that as per the Criminal Dossier System maintained by the police, the petitioner has been involved in twenty-two cases as on 19.12.2014 and there is possibility of his committing another offence if released on bail.

4. I have considered the rival submissions and carefully gone through the record. The case FIR No.159/2011 under Section 364-A/347/323/34 IPC was registered at PS Bhalswa Diary on the basis of statement made by Sh.Shivaji Sahu, father of Lalit – the abducted person on the ransom call being received by him demanding ₹20 lacs for releasing his son Lalit aged about 25 years.

5. As per the chargesheet annexed with this bail application, Sh.Shivaji Sahu received a call from P.S. Samay Pur Badli about his son Lalit being present there. Statement of Lalit was recorded wherein he stated that one Ali Sher, whom he know previously, alongwith some of his other friends came to him in the area of Jahangir Puri and took him to CD Park on the pretext of discussing something. There they started beating him and asked him to call his father. When he called his father on phone, Ali Sher took away the phone and asked for ransom. Ali Sher was addressing one of his associates as Sami and other as Pahalwan @ Gunga.

6. After recording the statement of Lalit, his medical examination was got conducted and BJRM Hospital and thereafter Lalit was handed over to his father Shivaji Shahu.

7. It is further mentioned in the chargesheet that during investigation Jamshed @ Gunga and Mohd. Sami were arrested. While Jamshed @ Gunga refused to take part in TIP, Mohd. Sami was duly identified.

8. As per the chargesheet, statement of Lalit under Section 164 CrPC was also got recorded. PW Lalit has been examined twice i.e. when Ali

Sher was proclaimed offender and then after Ali Sher was arrested in this case.

9. The Statement made by Lalit about the person who kidnapped him was that Ali Sher, whom he knows, alongwith his two other friends had abducted him. The other two friends were not named. The two other persons namely Jamshed @ Gunga and Mohd. Sami were sought to be got identified by applying for conduct of their test identification parade.

10. Ali Sher, the petitioner before this Court was previously known to PW-2 Lalit hence was not required to be identified during test identification parade.

11. What is the effect of not identifying the petitioner Ali Sher by PW Lalit during trial, has to be considered and appreciated by the learned Trial Court at the appropriate stage.

12. Taking into consideration the gravity of the offence wherein PW Lalit was allegedly abducted by Ali Sher, who was previously known to him, alongwith his associates and both the associates have been identified by him in his statement made before the Trial Court, I do not find it to be a fit case to enlarge the petitioner on bail.

13. The bail application is dismissed.

14. The observations made above are only for the purpose of deciding the bail application and shall not be considered as an expression on merits.

PRATIBHA RANI, J.

APRIL 27, 2016

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