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

+ BAIL APPLN. 478/2016

SANTRAJ @ SANTE

..... Petitioner

Through: Mr. Lovkesh Sawhney, Adv.

versus

STATE (GOVT OF NCT DELHI)

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Rattan Lal, PS Kotwali.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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11.05.2016

1. This is an application under Section 439 Cr.P.C. read with Section 482 Cr.P.C. filed by petitioner for grant of bail to applicant/accused in case FIR No.415/2015, under Sections 395/397/365/120-B/412/201 IPC & 25/54/59 Arms Act, PS Kotwali.

2. The petitioner is seeking bail in case FIR No.415/2015, under Sections 395/397/365/120-B/412/201 IPC & 25/54/59 Arms Act, PS Kotwali.

3. On behalf of the petitioner, Mr. Lovkesh Sawhney, Advocate has submitted that the petitioner has been charge-sheeted for committing offence punishable under Sections 395/397/365/120-B/412/201 IPC. Except alleged recovery of 'Katta' from his possession, nothing else was recovered from him whereas from co-accused Sonu 28 Kg. of silver was allegedly recovered and from Maan Singh 19 Kg. of silver was recovered out of robbed four silver cartons containing 250-275 Kg. of silver as mentioned in the charge sheet.

4. Learned counsel for the petitioner has drawn the attention of this Court to the order dated 03.12.2015 whereby learned ASJ dismissed the bail applications filed by the present petitioner and two other co-accused Sonu and Maan Singh noting as under:

“IO has stated that he was obtaining the CDR which was likely to be received within one month.

These are three bail applications on behalf of accused Sant Raj, Sonu and Maan Singh on the ground that there was no recovery from the same. Their case was similar to the co-accused who have already been granted bail.

IO has stated that there was recovery of katta used in the offence from Sant Raj, 28 Kg. of silver from Sonu and 19 Kg. of silver from Maan Singh.

Ld. Counsel for accused Maan Singh has stated that there was no proof that the accused was tenant on the said premises from where recoveries were effected.

Bail application of three accused on the ground that there was no recovery and no corroborative evidence in the form of CDR have been granted. Bail applications of other accused had been dismissed on the ground that there was recovery as well as other corroborative evidence. The present three applications are similarly situated to accused Chander Pal and Sanjeev whose bail applications have been rejected.

Accordingly, the application are dismissed”.

5. On behalf of the State, it has been submitted that merely because the robbed silver was not recovered from the petitioner is not sufficient to grant him bail as Katta which was allegedly used in the occurrence has been recovered from him. Learned APP for the State has also placed on record the copy of the order passed in bail application Nos.2682/2015 & 1958/2015 passed by the co-accused Sanjeev and Sunil respectively whereas both the applications have been dismissed as withdrawn.

6. A detailed status report have been filed on 04.03.2016 as well as on

09.05.2016. The facts of the case as mentioned in the status report are as under:

“It is briefly stated that on 11.05.2015 complainant Sh. Amit Kumar S/o Sh. Mufat Lal R/o H.No.128, Gupta Colony, Delhi came to Police Station and reportedly stated that he works as a Manager cum-partner in a Cargo company under the name and style of M/s Rajesh Kumar, Arvind Kumar, 316 Kuncha Ghassi Ram, Chandni Chowk, Delhi. On 11.05.2015, he instructed two of his employees, Govind and Dalip along with two THELA puller namely Sunil and Hari Singh to collect silver jewellery cartons from Old Delhi Railway Station which used to come from Rajkot via Ahmedabad. At about 7.40 A.M. he was informed by one Ramesh that his goods have been looted. Thereafter, he reached at his office, where he was informed by Ram Kumar that he also had gone to pull the THELA along with Govind and others who were pulling the hand cart. After collecting 11 cartons, when they reached in front of Tejoo Fashion at Queen Road, suddenly one Scorpio stopped in front of THELA from which two persons got down, one of them was in police uniform,. After getting down, they started to threaten them. Ram Kumar further informed him that three persons in police uniform brandished their pistol and threatened them and took away Govind, Dalip, Sunil and Hari Singh in Scorpio. Out of fear, Ram Kumar has hidden himself. In the meantime, one big white car came there and three persons de-boarded from it and they cut loose the rope of the THELA and put 4 (Four) cartons in the car and fled away. Thereafter, a motorcycle with three pillion riders came there and tried to put one carton on the motorcycle but could not be succeeded in doing so because of heavy weight of carton. Thereafter, Ram Kumar took all the remaining cartons to the office. Ramesh also told him that Govind had informed on the office telephone number that they have been released in Noida. The complainant further stated that he checked the cartons and found that 4 cartons out of 11 cartons were found missing which were approximately 250-275 kgs. of silver jewellery which contains 140 Kgs of pure silver. In the light of these facts and circumstances, a case FIR No.415/15 dated 11.05.2015 U/s 395/397/365/120B/412 IPC PS Kotwali was registered and investigation taken up by SI Rattan Lal.

During the investigation, it came into notice that Sunil

Kumar, THELA puller hatched a conspiracy with the other accused persons to loot the jewellery. On 06.05.2015 accused persons namely Jogendra @ Jugnu, Chanderpal, Tahir, Babloo, alongwith accused/applicant Sant Raj @ Sante and came to Chandni Chowk and met to Sunil Kumar. They collected all the information regarding delivery of jewellery goods. They prepared a plan to rob silver jewellery. As per plan, on 11.05.15, accused/applicant Sant Raj @ Sante alongwith his associates came in different cars at Queen road Chandni Chowk. First, they stopped the Scorpio Car in front of THELA, carried by Dalip, Govind, Hari Singh and Sunil. They kidnapped all of them on the point of pistol in Scorpio Car except Ram Kumar and fled away from the spot. Subsequently, other Xylo Car No.DL 1YC 3050, drove by accused Sunil Rathor came with his associates and looted 4 (four) cartons of silver jewellery and escaped from the spot with looted jewellery at the point of pistol”.

7. Taking into consideration the manner in which conspiracy was hatched and after due planning the offence was allegedly committed and that the weapon used in commission of the alleged crime has been recovered at the instance of the petitioner, merely because of robbed silver was not recovered from his possession is no ground to release him on bail just for he being in custody since 18.06.2015 i.e. for about 11 months or that only Katta has been recovered from him allegedly.

8. Bail application is dismissed.

9. Any observations made hereinabove for the purpose of dealing with the contentions raised during hearing of the bail application shall not be deemed to be an expression on merits of the case.

PRATIBHA RANI, J.

MAY 11, 2016
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