

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Judgment delivered on : April 04, 2016

+ BAIL APPLN. 334/2016
FAIZAN @ PARVEZ Petitioner
Through: Mr.C.M. Thapliyal, Mr.S.P. Paul,
Advocates

versus

THE STATE (GOVT OF N.C.T, DELHI) Respondent
Through: Mr.Kamal Kumar Ghai, 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. 90/2011 under Sections 382/395/397/412/34 of Indian Penal Code, at Police Station Sunlight Colony, Delhi.

2. The prosecution is based on the incidence of 24.02.2011, when complainant of FIR in question – Mr. Avinash Kumar informed that when he was waiting for some conveyance at Hazrat Nizamuddin Railway Station at about 4.10 AM, a van of grey colour came, wherein four persons were already sitting. He disclosed that he had to go to Hauz Khas and thus he sat in the van. It is alleged that after sometime,

the said persons covered their faces and one of them made him disclose the PIN of his ATM card, whereas another boy pointed out some sharp edged weapon towards him and forced him to disclose the PIN of ATM, out of which he withdrew cash of Rs.5,000/-. A laptop (make DELL Studio 15) was also snatched from the complainant. It is informed that the boys were aged between 25 – 28 years. Accordingly, the present FIR was registered on 28.02.2011.

3. Investigation started and during investigation, five accused persons were arrested. Recovery of laptop of the complainant was effected from Gulfan @ Shanu. The accused persons were correctly identified by the complainant, being involved in the present case. After completion of investigation, charge sheet was filed. The trial is at evidence stage. The present petitioner was also found involved in other similar case being FIR No. 82/2011.

4. Mr. C.M. Thapiyal, learned counsel for the petitioner contended that the petitioner is in custody since 11.08.2014 and all the other co-accused persons have been enlarged on bail. It is further contended that though the petitioner was apprehended on 28.02.2011 and thereafter released on bail but due to non-appearance before the Trial Court on 11.08.2014, he was declared proclaimed offender and since then, he is in custody.

5. On merits, learned counsel for the petitioner contended that there is no evidence against the petitioner which prima facie proves the guilt of the petitioner. It is further contended that the petitioner is the only earning member of his family consisting of old aged mother,

illiterate wife and two minor children, who are at the verge of starvation due to the incarceration of the petitioner.

6. Mr. Kamal Kumar Ghei, learned Additional Public Prosecutor for the State submitted that the petitioner is involved in an offence of serious nature and he had covered the face of the complainant at the time of incident. Not only this, the petitioner was earlier granted concession of bail but he did not appear before the Trial Court and misused the liberty granted by the Court, therefore the present petition be outrightly rejected.

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 investigation of this case is complete, charge sheet has been filed and other co-accused persons are on bail. In fact, the petitioner was also granted bail in the present case but it is only for the reason that the petitioner could not appear before the Trial Court on the date fixed and that he was taken into custody. This court also considers the fact that for the default of non-appearance before the Trial Court on the date fixed, the petitioner is already behind the bars for the last one and half years.

9. Considering the aforesaid facts and circumstances of the present case, this Court is inclined to grant bail to the petitioner – Faizan @

Parvez in the present case subject to his furnishing personal bond in the sum of Rs.25,000/- with two sureties of the like amount, to the satisfaction of the Trial Court. The petitioner is however directed not to influence the witnesses and shall not tamper with the evidence.

10. 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.

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

12. Dasti.

APRIL 04, 2016
pkb

P.S.TEJI, J