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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 11.05.2016

BAIL APPLN. 962/2016

DILSHAD

..... Petitioner

Through: Mr. R.C. Tiwari, Advocate

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Ashish Dutta, APP with SI Vinay,
PS- Ranjit Nagar

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.7716/2016 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

BAIL APPLN.962/2016

1. The present application under Section 439 of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeks regular bail in FIR No.33/2015, under Sections 392/397/411/34 IPC read with Sections 25/27/54 Arms Act, registered at Police Station- Ranjit Nagar, Delhi.

2. The applicant has been in judicial custody since 16.01.2015 and the trial against him as well as his co-accused is underway.

3. Mr. Tiwari, learned counsel appearing on behalf of the applicant invites my attention to the testimony of PW-3, the victim in the present case to urge that, that testimony at the highest makes out a case against the applicant under Sections 379/411 read with Section 34 IPC and on that footing, the indefinite judicial custody of the applicant is unwarranted.

4. Counsel appearing on behalf of the applicant would then urge that no recovery of the robbed material was made from him and that the entire episode is unbelievable, since it reads like the story of a film. Counsel appearing on behalf of the applicant would lastly urge that the other cases registered against him were in the aftermath of his arrest in the subject case.

5. On the other hand, Mr. Dutta, learned APP appearing on behalf of the State would urge that the applicant is a part of what has been categorized as a *THAK-THAK GANG*, who knock at the window of vehicles on the road and purloin valuables after distracting its unsuspecting occupants. Mr. Dutta would then urge that PW-3, the victim has clearly and unequivocally identified the applicant as the individual who in concert with the other co-accused distracted the victim and took away his mobile phone, which piece of evidence along with other mobile phones, were recovered by the police from the co-accused Mehfooz.

6. Further, it is pointed out that PW-3, the victim pursued the applicant, after being robbed and apprehended him at a little distance away from the spot where the alleged offence was committed, which is clearly evident from the testimony of PW-3, the victim. Furthermore, it is evident that the applicant is involved in at least three other cases of a similar nature.

7. As per the prosecution, the present case was registered on the statement of Sh. Kanishk Kandoi, S/o Sh. Manoj Kandoi(PW-3) that he had

stopped his car on Pusa Road at the traffic lights and when he started moving his car after the signal turned green, a person stopped his car and started beating on the bonnet of the car. When the complainant/PW-3 rolled down the window of his vehicles, all of a sudden, another boy from the left side started knocking the door of the car. Perplexed, the complainant/PW-3 also rolled down the left side window of the car and at that juncture the person standing on the right side pressed on his neck and put a knife thereon. Thereafter, the person standing on the left side lifted the mobile phone of the complainant from the dashboard of the car and both started running and sat in a Santro Car parked on the other side of the road. The complainant with the help of a motorbike rider chased the said Santro Car and at the Patel Nagar Metro Station traffic signal, where upon seeing the complainant, one accused came out of the car and started running. The complainant caught him at that time and handed him over to the police personnel, who were present there. The person so apprehended disclosed his name as Dilshad s/o Kamruddin R/o Kosi Kalan, District Mathura, Uttar Pradesh, the applicant herein.

8. In the present case, it is observed that the applicant was apprehended at the spot. The clear cut testimony of PW-3, the victim, who has apprehended him and has identified him before the trial court, remains un-rebutted. It is further observed that there are three other similar FIRs registered against the applicant. Furthermore, the audacity of these so called gangs is apparent from the circumstance that the alleged offence was committed at half-past noon in broad daylight so to speak on a busy thoroughfare.

9. In view of the foregoing, in my opinion, considering the gravity of the

charge against the applicant and the quality of the evidence collected against him, the present is not a fit case for grant of regular bail at this stage.

10. Dismissed.

SIDDHARTH MRIDUL, J

MAY 11, 2016
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