

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

+ Bail Application No.1276/2016

Date of Decision: 4th August, 2016

SANJAY @ BHOLA

..... Petitioner

Through: Mr.Gurbaksh Singh & Mr.K.R.Dogra,
Advs.

versus

STATE (NCT OF DELHI)

..... Respondent

Through Mr.Manjeet Arya, APP.

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

P.S.TEJI, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.130/2014 under Sections 419/420/365/392/395/412/120B/34 IPC registered at Police Station: Kamla Market, Delhi.

2. The case in the nutshell is that on 22.04.2014 a complaint was recieved at police station Kamla Market from Sh.Rishi Chander Yadav S/o Sh.Kanhaiya Lal to the effect that he works for Sh.Rajender Kumar as a cargo carrier at Allahabad and used to travel from Delhi to Allahabad several times in a month for supply and distribution of parcels containing electronic items like mobile phones, chargers and

other electronic items supplied from Gaffar Market, GB Road, Sadar Bazar, Lajpat Nagar and other different markets of Delhi. The payments for the items were being sent from Allahabad through Bank Account and some times through parcel. On 12.04.2014, a parcel containing some defective electronic items which were to be returned to the shopkeepers in Delhi and cash around 50 lakhs was booked from Allahabad Railway Station in Prayag Raj Express for Delhi. On 13.04.2014, the train reached New Delhi Railway Station at about 7.10 A.M. and the parcel was got released by the complainant and loaded on a rickshaw being pulled by a person namely Mehto, known to the complainant who usually plied his rickshaw at New Delhi Railway Station. On the way at Pahar Ganj Fly Over, one person wearing police uniform standing near a black car stopped the complainant and enquired about the parcel after introducing himself as Crime Branch official. In the meanwhile, another person came out from the car and picked the parcel from rickshaw and put it into the dicky of the black car and forced the complainant to sit in the car. In the meanwhile, another Wagon R car also arrived there from behind. One person in police uniform came out from the car and caught hold of the rickshaw

puller and tried to forcefully drag him into the car but could not succeed. After that, both the cars fled away from there. In the car, they confiscated mobile phone of the complainant saying that they are from Crime Branch and taking him to the office of Crime Branch at Chanakya Puri, Delhi. All through they were receiving instructions from a person over the phone. They took the complainant to Suraj Kund where they dropped him and while taking away the parcel, threatened him not to disclose this to anyone. Thus, as per the complainant, due to fear, he did not report the matter to police until 22.04.2014.

3. During the course of investigation, four accused persons namely Surender Kumar Verma, Vasudev Prasad, Raj Bahadur @ Raju and the petitioner were arrested. A total sum of Rs.16 lakhs cash and household articles worth Rs.1.5 lakhs apart from vehicles used in the commission of crime being Corolla Car HR 51 R 9900 and Wagor R DL 8C NB 8928 were received. Out of the total cash recovered, 5.25 lakhs was recovered from Surender, Rs.1.45 lakhs was recovered from Raj Bahadur @ Raju, Rs.2.80 lakhs was recovered from Vasudev and Rs. 2.55 lakhs was recovered from the petitioner. Rs. 4 lakhs was

recovered at the instance of Yadvendar @ Guddu Yadav. During the course of TIP, accused Raj Bahadur was correctly identified by the complainant as the person who had come to the spot in his Wagon R. On 10.03.2015, accused Sanjay Kariyar @ Bholu surrendered before the Court and after interrogation was arrested. The accused Manish has been declared a PO by the Court. The electronic items thrown in the Agra Canal were recovered at the instance of the petitioner.

4. During the course of further investigation, it was revealed that accused Manish, Guddu and the petitioner used to visit Vasudev who had connection with the petitioner from Allahabad and was having detailed information about the kind of transactions done by the complainant. On 13.04.2014 after having specific information from the petitioner about the parcel coming from Allahabad through Prayag Raj Express, the accused persons executed their plan. During the course of investigation, it was revealed that the looted parcel contained Rs.43 lakh cash which was distributed equally between the six accused and one lakh was kept for the petitioner who had given information about the movement of money from Allahabad.

5. The learned counsel for the petitioner in support of his case has

taken the grounds that there is no allegation against the petitioner that he has snatched the parcel or currency notes or removed the notes or any recovery was effected from him and the only allegation is that he informed about the whereabouts of Mr.Rishi, the complainant, who was to carry the said parcel to the co-accused who planned the robbery and robbed the complainant; that the petitioner is being roped to complete the chain of events; that the parcel containing notes is not allowed to be carried in a train and thus, the question of robbery of notes does not arise; that the petitioner has been implicated only on the basis of presumptions; that the complainant in his testimony has nowhere stated that the petitioner saw him when he carried the notes from Allahabad to Delhi; that the petitioner has been implicated on the basis of a call made by the petitioner to the accused Vasudev in the usual course of business; that the petitioner had a business dealings with Vasudev and was thus making calls to him and on the basis of a call, he cannot be roped in the present case without any evidence on record; that the prosecution has not placed on record any document such as railway ticket or receipt qua deposit of parcel and release of parcel, which could suggest that the parcel was booked by the

complainant and it was got released by him and he travelled from Allahabad to New Delhi.

6. Per contra, the learned APP for the State has opposed the bail application on the grounds that the petitioner is the master mind behind commission of the offences in question and minus him the offences would not have taken place; that recovery of electronic items has been effected at the instance of the petitioner from the Agra canal; that the bail application of the co-accused Raj Bahadur who has been identified by the complainant in the TIP proceedings who had come to the spot in a Wagon R, has been rejected by this court on 11.05.2016; that out of 32 witnesses, 18 witnesses including the complainant have been examined so far and the remaining witnesses are yet to be examined; that if released on bail, in view of the gravity of offence, the petitioner is likely to threaten the witnesses and tamper with the evidence.

7. From the facts and circumstances of the case, this Court observes that the petitioner was one of the main conspirators who hatched the criminal conspiracy to commit the robbery of money and other articles. It is specifically alleged against him that he passed the

information about the movement of parcel containing money which was robbed by the co-accused persons. There is strong apprehension that if the petitioner is released on bail, he may tamper with the evidence as he was the master mind of the alleged conspiracy. The contentions raised by the petitioner are matter of trial and no comment on the same can be made at this stage. Even otherwise, it is alleged that recovery of electronic items was effected at the instance of the petitioner. The evidence till date recorded cannot be read in piecemeal and the same can be ascertained only at the time of the judgment by the Trial Court.

8. In view of the gravity of offence and specific role attributed to the petitioner, this court is not inclined to grant bail to the petitioner.

9. 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.

10. The present bail application is accordingly dismissed.

(P.S.TEJI)
JUDGE

AUGUST 04, 2016
dm

