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

+ **BAIL APPLN. 1793/2016**

OM PRAKASH @ SUNNY

..... Petitioner

Through: Mr. Sohit Choudhary, Advocate.

versus

STATE

..... Respondent

Through: Ms. Anita Abraham, APP along with
ASI Shyamlal, PS-Malviya Nagar, for
the State.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
02.09.2016

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Crl. M.A. No.13593/2016

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

BAIL APPLN. 1793/2016

The petitioner has preferred the present bail application under Section 439 Cr.P.C. to seek bail in case FIR No.2/2016 under Section 397/ 411/ 34 IPC and under Section 27/ 54/ 59 of the Arms Act registered at Police Station – Malviya Nagar, New Delhi. The aforesaid FIR came to be registered on the statement of the injured/ Manoj Kumar.

The case made out from the FIR is that on 01.01.2016, injured Manoj

Kumar along with his friend Sanjeev Sharma and Sam, was coming from Bristol, Gurgaon and was going to drop his friend Sam at Khirki Extension. At about 3 am, complainant along with his friend Sanjeev Sharma went to Saket City Hospital for parking his vehicle. At that time, one boy came to the car of complainant and suddenly opened the door of the car forcibly. The boy, who was having pistol like weapon in his hand, asked the complainant to come out of the vehicle, otherwise he will be killed. When the complainant refused to come out, that boy fired at the complainant and bullet hit left thigh of the complainant and the complainant started bleeding. The complainant and his friend Sanjeev Sharma started running. In the meanwhile, the person who had attacked the complainant ran away with the vehicle of complainant. Thereafter, complainant went to Max Hospital. Complainant stated in his statement that he can identify that person if shown to him.

The application/ accused Om Prakash was arrested on 06.01.2016 in case FIR No.1716/16 under section 411/ 482 IPC. In that case, the petitioner got recovered the robbed Honda City car of the complainant and disclosed his involvement in the present case. Consequently, the petitioner was arrested in the present case on 06.01.2016.

The petitioner is stated to have disclosed that on 01.01.2016, he along with his associates Prince and Devender had fired at one boy and snatched his Honda City car. The petitioner refused to participate in Test Identification Parade. The other two co-accused were arrested. Subsequently, the co-accused Prince also refused to participate in Test Identification Parade, while co-accused Devender could not be identified in Test Identification Parade.

The submission of learned counsel for the petitioner is that according to the complainant, there was only one boy involved in the crime. Hence, the involvement of three persons, including the petitioner is not possible. According to the petitioner, it was the other co-accused Prince, who was involved in the crime.

The petition is opposed by the learned APP. Ms. Abraham submits that there is nothing to suggest that the involvement of the petitioner in the crime is not made out. It was at his instance that the robbed vehicle of the complainant was recovered and that he had refused to join the Test Identification Parade proceedings. It has been informed that charge-sheet has been filed and the evidence of the prosecution has not yet been led.

Looking to the gravity of the crime alleged against the petitioner and the fact that the evidence of the complainant and other witnesses has not yet been recorded, I am not inclined to grant any relief to the petitioner at this stage.

Dismissed.

VIPIN SANGHI, J

SEPTEMBER 02, 2016

B.S. Rohella