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

+ **BAIL APPLN. 2196/2016**

RAJU KUMAR

..... Petitioner

Through: Choudhary Rakesh Sangwan, Adv.

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: Ms. Radhika Kolluru, APP

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

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24.10.2016

The petitioner has preferred the present application to seek anticipatory bail under Section 438 Cr PC in case FIR No.338/2016 under Section 381/34 IPC registered at PS Vasant Kunj North. The case of the prosecution against the petitioner is that there is a company named 'Sephora', which has an outlet in DLF Promenade Mall. The said company is into marketing of cosmetic items. The co-accused Sanjay Dawar was working as supervisor at the said outlet. Articles worth Rs.7.5 lacs went missing from the showroom. The complainant have installed CCTV camera at the said outlet which captured the crime allegedly committed by Sanjay Dawar and the petitioner.

The submission of counsel for the petitioner is that the co-accused Sanjay Dawar has already been admitted to bail. No recovery has been made from Sanjay Dawar. The petitioner has been implicated only on the basis of the statement of Sanjay Dawar.

The application preferred by the accused has been rejected by the Trial Court on 30.09.2016. The reason for the rejection is that the petitioner has gone into hiding and process under Section 182 Cr PC has already been issued against him. Moreover, Sanjay Dawar has disclosed that the articles have been taken away by the accused and thus recoveries have to be effected.

The submission of the petitioner is that the petitioner is not named in the FIR and Sanjay Dawar has made contradictory statements. While in his disclosure statement, the accused Sanjay Dawar has implicated the petitioner, he has argued in his application that he gave the articles to the petitioner herein on the instructions of supervisor Vaibhav Jain. The submission is that the story of the prosecution is, therefore, not believable.

On the other hand, the learned APP submits that the reason why the petitioner has not been named in the FIR is that he was an employee of the complainant at another outlet, and it was on the disclosure of Sanjay Dawar that the involvement of the petitioner was discovered in the crime in question.

Having heard learned counsels and perused the record, I am not inclined to grant any relief to the petitioner in the present case. The prosecution relies upon the CCTV footage, and that apart, the stolen articles are yet to be recovered. The submission that section 381 could not be invoked has no merit, since the petitioner apparently was an employee of the

complainant at an earlier point of time. Moreover, the co-accused Sanjay Dawar was a supervisor and the prosecution has invoked section 34 IPC. The recovery of the stolen articles is yet to be made. The custodial interrogation of the petitioner is, therefore, considered necessary. The petition is, accordingly, dismissed.

VIPIN SANGHI, J

OCTOBER 24, 2016

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