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

+ **BAIL APPLN. 2231/2016**

ROCKY @ ARIF

..... Petitioner

Through: Mr. Vivek Kumar Verma, Advocate

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Rajat Katyal, APP with Ms.
Ankita Goyal, Adv. with Insp. Lokesh
Sharma, PS Govindpuri

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

02.11.2016

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Crl. M.A. No. 16987/2016

Exemption allowed, subject to all just exceptions. The application stands disposed of.

BAIL APPLN. 2231/2016

Issue notice. Notice is accepted on behalf of the State. The petitioner has preferred the present application u/s 439 Cr PC to seek regular bail in case FIR No.730/20914 u/s 302/201/396/411/120B IPC registered at PS Govindpuri. The petitioner has been in judicial custody since 16.07.2014.

The case of the prosecution against the petitioner is that he along with his associates hatched a conspiracy to kill the deceased Krishan Kumar Chopra by calling him at House No.RZ-9/12, Second Floor, Gali No.11, Tughlakabad Extension, New Delhi. In pursuance of the said conspiracy, the accused along with his associates with the intention to kill and rob

Krishan Kumar Chopra called him to the said house. They robbed his articles and took the purse containing cash of Rs.9,500/-, ATM card, mobile phone and other documents. The co-accused Rajan Gulati, who is also in custody is alleged to have bolted the room from inside, while the accused Salman and Mohd. Afsar are alleged to have tied the hands and feet of Krishan Kumar Chopra. The petitioner is alleged to have put a binding tape on the mouth and nose of the deceased. Another accused Komal is alleged to have strangled the mouth and face of the deceased. Thus, all the accused persons in active connivance with each other caused the death of Krishan Kumar Chopra. They also committed dacoity with Krishan Kumar Chopra and caused his death. They are also accused in conspiracy to disappear the evidence of murder by destroying his ATM card, chunni and mobile phone.

Allegations against the petitioner is that on 16.07.2014, he got recovered one purse containing Rs.3,500/-, visiting cards, acknowledgment of PAN application of Krishan Kumar Chopra and one key from the second floor of the aforesaid house, which he had retained knowingly or having reason to believe the same to be stolen property belonging to the deceased.

The submission of counsel for the petitioner is that the petitioner is in judicial custody since 16.07.2014. He submits that the petitioner is no longer required to be detained in custody at the trial stage since the evidence of the witnesses has already been recorded. He further submits that the petitioner was not a tenant or owner of the premises where the crime was allegedly committed. There is no evidence to show that the petitioner was present at the time of the incident at the said premises. At the highest, section 411 IPC could be made out against the petitioner even if the allegations against made are believed to be true.

On the other hand, the submission of Mr. Katyal is that the two accused persons, namely, Komal and Mohd. Afsar are still absconding. At the instance of the petitioner, documents belonging to the deceased have been recovered. Moreover, there is CCTV footage which shows that the petitioner used the ATM card of the deceased. Since the petitioner was unknown to the deceased, it is not explained as to why he used the said card. He further submits that the evidence is still to be recorded in the case and it shall be for the trial court to evaluate the evidence including on the aspect of whether the petitioner was present at the premises and the role attributed to him.

The trial court while dismissing the petitioner's bail application has noticed that the trial in the case is proceeding expeditiously. The dates for recording of evidence have been fixed from 22.11.2016 to 25.11.2016 and every effort is made to dispose of the case on an expeditious basis. The matter is at the crucial stage of trial.

The aforesaid being the position, I am not inclined to grant bail to the petitioner at this stage. However, the trial court shall continue with its endeavour to record the remaining prosecution evidence without any delay. The prosecution shall punctually produce the witnesses and shall not take any adjournment before the trial court.

The application stands disposed of in the aforesaid terms.

Dasti.

VIPIN SANGHI, J

NOVEMBER 02, 2016

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