

\$~48

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

+ **BAIL APPLN. 2186/2015**

RAJPAL SINGH

..... Petitioner

Through: Mr.V.K.Jha, Advocate.

versus

STATE (GOVT OF NCT DELHI)

..... Respondent

Through: Ms.Kusum Dhalla, APP for the State
with SI Satbir, PS Begum Pur.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

28.01.2016

1. The petitioner is seeking bail in case FIR No.204/2012 under Sections 394/395/412/120-B IPC, PS Begum Pur, Delhi on the following grounds:-

- (i) The name of the petitioner was not mentioned in the FIR.
- (ii) The petitioner was stated to be employee of the complainant and there is no averment that he was present at the spot at the time of incident.
- (iii) The petitioner has spent almost 3½ years in judicial custody during trial of this case.
- (iv) The daughter of the petitioner is mentally retarded and she needs to be taken care of by the petitioner.
- (v) The complainant has not deposed against the petitioner during trial.
- (vi) Out of the six accused persons, five accused persons have already been granted bail and on parity, the petitioner may also be released on bail.

2. Learned counsel for the petitioner has placed on record the copies of the orders dated 31.08.2015 and 05.10.2015 whereby co-accused Shyam @ Seetu and Yogesh @ Kala have been granted bail by this Court.

3. I have considered the submissions made on behalf of the petitioner and carefully gone through the record.

4. The learned Trial Court, in its order dated 22.09.2015, while declining the prayer of the petitioner for release on bail, made the following observation:-

*'Upon hearing the arguments and on perusal of the record reveals that the applicant Rajpal is facing trial for offences U/s. 120-B/395 read with Section 120-B IPC and U/s. 412 IPC and the case is at the stage of PE and statement of other prosecution witnesses are yet to be recorded. **The case of looting of ₹10 lakhs at gunpoint and ₹65,000/- has been recovered at the instance of the applicant Rajpal. He has also been indentified by the complainant.** This is not the stage of appreciation of evidence. Hence, seeing the gravity of the offences and seriousness of the allegation, I do not consider it a fit case to grant bail at this stage.*

Consequently, the bail application of the Rajpal is hereby dismissed.'

5. It may be noted here that on the basis of statement of the complainant Ajay Johar recorded on 23.07.2014, learned counsel for the petitioner is contending before this Court that the complainant has not deposed anything against the petitioner but bail application has been dismissed by the learned Trial Court after about one year and two months of examination of the complainant.

6. Since it is not for this Court to appreciate the evidence and the same is required to be done by the learned Trial Court at the appropriate stage, suffice it to note that after examination and cross examination of PW-5 Sh.Ajay Johar, the bail application has been rejected by the learned Trial Court for the reasons recorded above.

7. Status report has been filed by the State wherein it is mentioned as under :-

'During the course of investigation, on 17.08.2012 an information vide DD no.93-B regarding arrest of accused persons, Rajpal @ Raju (Petitioner), Shyam @ Situ, Ankur @ Kala, Pawan Pandit @ Mahabir and Atul @ Murli in case FIR No.310/2012 U/s 25/54/59 Arms Act, PS Vijay Vihar, Delhi from AATS/Outer District, Delhi was received at PS Begumpur, Delhi.

During the course of interrogation, all the above noted accused persons have disclosed to commit the commission of an offence in case FIR No. 204/2012 as mentioned above. To this, effect disclosure memos were prepared. Weapon of offence, Maruti Van bearing registration No.DL-9C QS 5844, M/cycle No.DL-8S NC 7152 with duplicate key used in the crime and cash amount Rs.75,000/- and Rs.30,000/- and cash amount Rs.48,500/- and cash amount Rs.85,000/- and cash amount Rs.78,000/- were also recovered from the possession of accused persons.

On the basis of the disclosure accused Rajpal @ Raju was arrested on 18.08.2012. On his interrogation he disclosed having involved in the present case. During the course of interrogation he disclosed that he had worked as driver with the complainant and he was terminated from the services due some reasons by the complainant. Due to which planning for robbing the complainant was made with above said co-accused persons and receed the house and Ajay Johar and his visiting persons which as per the planning and he did not join himself in the commission of the crime. However, he along with Ankur @ Lala followed the car of the complainant while going G D Goenka Public School on M/cycle and by reaching at Rithala he get down from the M/cycle. Robbed money for a sum of Rs.65,000/- and key of the Maruti Van used in the crime were recovered from him.'

8. Keeping in view the fact that the petitioner Rajpal was an employee of

the complainant and the planned manner in which the offence has been allegedly committed, I do not find it to be a fit case to enlarge the petitioner on bail.

9. The application is dismissed.

10. The observations made above are only for the purpose of deciding the bail application and shall not be considered as an expression on merits.

PRATIBHA RANI, J.

JANUARY 28, 2016

'st'