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

+ BAIL APPLN. 64/2017 & CrI.M.A. No.2829/2017

SURYA THAPAR Petitioner
Through Mr.Saurabh Kansal, Adv. with
Ms.Pallavi Sharma Kansal, Adv.

versus

STATE Respondent
Through Mr.Ashish Dutta, APP for the State
with Inspt.Ramesh Kumar Singh,
EOW/Mandir Marg, New Delhi.

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

ORDER
% **01.03.2017**

In the present case, it has been submitted by learned counsel for the applicant that in the present case, the applicant is in custody since 11th August, 2009 till date whereas the maximum sentence under Section 420 IPC is seven years which is major section attracted in the present case.

The grievance of the applicant is that while deciding the earlier application, the court below had not taken into the consideration the period from 3rd November, 2011 to 13th May, 2013 as the nominal roll of the applicant shows the non-presence of the applicant from 3rd November, 2011 to 13th May, 2013.

During the course of arguments, it has been revealed that the

applicant was never released on bail or otherwise in the present FIR or in the present trial. Definitely, the record of releasing the applicant on bail in the present case is part of the record of the trial court and if the trial court record does not reveal that the applicant was released in the present case, he shall be deemed to be in custody with respect to the present case, either in Tihar Jail or any other jail until the applicant is released.

Consequently, the present application is disposed of with the observation that the applicant is at liberty to move the fresh application before the court below, which shall consider whether the accused was released on bail from the date of custody i.e. 11th August, 2009 till date or not.

With the above directions, the bail application and Crl.M.A. No.2829/2017 are disposed of.

Dasti.

P.S.TEJI, J

MARCH 01, 2017/aa