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

\+ BAIL APPLN. 53/2017

KESHAV SHARMA ..... Petitioner

Through Mr.Ramesh Gupta, Sr.Adv. with Mr.Yudhishter Sharma, Adv.

versus

STATE ..... Respondent

Through Mr.M.S. Oberoi, APP with SI Pratap Singh, PS Punjabi Bagh.
Mr.Kirti Uppal, Sr. Adv. with Mr.Shashank Chowdhry, Adv. for the complainant.

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

ORDER

% 20.01.2017

Arguments heard.

The present application has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in FIR No.699/2016, under Sections 392/397/34 IPC, Police Station Punjabi Bagh.

The facts, in brief, of the instant case are that on 29.11.2016, the complainant Varun Mohan gave a written complaint in the Police Station Punjabi Bagh. It was alleged in the complaint that the complainant was working as IT consultant and was having cash of Rs.45 lakhs at his home. On 08.11.2016, the Government discontinued the old currency notes of Rs.500 and Rs.1000. Due to demonetization, the complainant wanted to deposit Rs.45 lakhs in his bank account maintained with Canara Bank but he was scared of going alone with such a huge amount. The complainant contacted his acquaintance Keshav Sharma (accused/petitioner-herein) and asked him to accompany the complainant to deposit the money. It was further alleged that accused Keshav told the complainant that the Manager of the bank was known to him and he assured that he would deposit the money at the time of closing i.e. around 8 p.m. Accused Keshav told the complainant that he would come within a day or two for depositing of money. On 14.11.2016, accused Keshav told the complainant to meet him in midway and by that time, accused would send 3-4 persons who would give security. Accused Keshav and his friend Manish met the complainant at Punjabi Bagh Red light and sat in his car. Accused Keshav asked the complainant to give the money on loan but he insisted on depositing in the bank. On the direction of accused Keshav, the complainant took his car near Punjabi Bagh Gurudwara and stopped there. Thereafter, Manish and Keshav showed pistols to the complainant and the money was robbed. 3-4 boys were called by them, including one Rana, and bags containing cash was handed over to him.

Learned Senior Counsel for the petitioner/accused has argued that the narration of incident as alleged by the complainant is false. The complainant is well known to the petitioner and he himself called him to come and help him in depositing the money in the bank. Thereafter, something happened between the complainant and the petitioner which was later on given the colour of robbery, whereas it was not the case of robbery rather it is a money dispute between the parties.

On the other hand, learned APP for the State has submitted that the investigation of the case is at the initial stage and if the petitioner/ accused is released on bail at this stage, it would hamper the investigation. During investigation raids were conducted at the premises of the accused Keshav. Efforts are being made to nab the accused persons and recover the robbed amount which is undisputedly an illegal tender, acceptable in the bank account of the person concerned only.

Perusal of record shows that the incident of alleged robbery had taken place on 14.11.2016, whereas the complaint was made to the police in writing on 29.11.2016. In his complaint made to the police, the complainant himself has mentioned that on the day of alleged robbery when he reached his home, he made calls to the parents of the accused Keshav. He had a telephonic conversation with Vikas, brother of accused Keshav who assured the complainant that his money would be returned soon. Thereafter, the complainant managed to get the phone number of Manish and have a conversation with him. It is further mentioned in the complaint that the complainant was in contact with the family members of accused Keshav who assured the complainant that his money would be returned.

Argument advanced by the learned Senior Counsel for the complainant is that the complainant was under constant and continuous threats which prevented him in making the complaint to the police on 29.11.2016 whereas the incident of robbery had taken place on 14.11.2016.

The facts and circumstances mentioned above clearly shows that the petitioner/accused Keshav was well known to the complainant. It was the complainant who had called the accused Keshav to help him to get his money deposited in the bank account. It is also apparent from the record that the complainant was in constant touch with the family members of the petitioner/accused including his brother-Vikas and made all efforts to get his money back. So, it does not lie in the submission of the counsel for the complainant that he was in constant threat which prevented him in making the complaint to the police instantly after the alleged incident of robbery with him. The allegations pertains to old currency notes declared as illegal tender, acceptable in the bank account of the person concerned only and is a monetary dispute between the parties.

In view of the above mentioned facts and circumstances, the application is allowed. It is hereby ordered that in the event of arrest of the accused/petitioner, he shall be released on bail on furnishing the personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the arresting officer. The accused /petitioner is directed to join the investigation as and when required; not to tamper with the evidence; not to influence the prosecution witnesses; and shall not leave the country without prior permission of the court concerned.

Before parting with the order, this court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

Bail application is accordingly disposed of.

P.S.TEJI, J

JANUARY 20, 2017
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