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

+ BAIL APPLN. 127/2017

YOGESH KUMAR

..... Petitioner

Through: Mr.Pawan Sharma, Adv.

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: Mr.Kamal Kr. Ghei, APP for State

CORAM:

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

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04.05.2017

This is an application under Section 439 Cr.P.C. filed on behalf of the petitioner seeking grant of bail in case FIR No.390/2016, under Section 408/34 IPC, registered at Police Station- Karol Bagh.

Learned counsel for the petitioner submits that the petitioner is in J.C. since 23.09.2016. He further submits that the date of incident as alleged in the FIR is 13.06.2016 and the FIR is dated 16.06.2016, wherein the allegation qua against the petitioner is that he was the employee of the complainant who ran away with the collection amount of Rs.33,36,500/-, which is factually incorrect and false and that the possibility of the false allegation against the petitioner cannot be ruled out. He also submits that the amount so mentioned in the FIR is an afterthought process and that there is no explanation why there is a delay in lodging of the FIR. He further submits that the non-making of the complaint on 13.06.2016 is a result of preparing a false document to punish the present petitioner, to which he has

already suffered, as he is in J.C. since 23.09.2016. He also submits that the charge-sheet has already been filed and the petitioner is not required for any custodial interrogation and further nothing has been recovered at the instance of the present petitioner and prays that the petitioner be released on bail.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the petitioner was the employee of the complainant, who ran away on Scooty with the amount of Rs.33,36,500/- on 13.06.2016. Learned APP for the State, on instructions from the IO, however submits that during the investigation nothing has been recovered from the possession of the accused persons.

From the perusal of the record, it is apparent that the date of incident is 13.06.2016 and the FIR has been registered on 16.06.2016. There is a delay in registration of the FIR and further nothing has been recovered from the petitioner during investigation and also the petitioner happened to be in employment of the complainant.

Looking into the above facts and circumstances, since the investigation has already been completed and the petitioner is stated to be in judicial custody since 23.09.2016, no purpose would be served if the petitioner is kept in judicial custody. Consequently, the petitioner is granted bail on his furnishing bail bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Trial Court with the condition that he shall not influence the prosecution witnesses; he shall not contact, threaten or coerce the complainant or any of his family members or to indulge in any illegal activities; he shall not tamper the prosecution evidence and he should not leave India without prior permission of the Court below.

The present bail application is allowed and disposed of accordingly.
However, this order shall not affect the merit of the case.

Copy of the order be given *dasti*, as prayed.

I.S.MEHTA, J

MAY 04, 2017/km