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

Decided on 28th March, 2017

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BAIL APPLN. 128/2017 &
CrI.M.A.Nos. 2719/17 & 3711/17

LOKESH BHADANA

..... Petitioner

Through : Mr.K.K.Manan, Sr.Advocate with
Mr.Ankush Narang, Ms.Anjali
Rajput, Ms.Shweta Sain, Mr.Devyani
Khosla and Mr.Jatin Sharma,
Advocates.

Versus

STATE (THE NCT OF DELHI)

..... Respondent

Through : Mr.Kamal Kr.Ghei, APP.
SI Raj Kumar, PS K.M.Pur.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P. GARG, J. (Oral)

1. The instant bail application filed on behalf of the petitioner was taken up for hearing on 23.01.2017. After directing the State to file Status Report, it was adjourned to 16.03.2017. CrI.M.A.No.2719/2017 for withdrawal of the bail application was taken up for hearing on 15.02.2017 as the petitioner had already been granted bail by the Sessions Court on 13.02.2017.

2. Trial Court record was requisitioned to ascertain as to how two bail applications one before the Sessions Court and the other before this Court were pending at the same time. Again, CrI.M.A.No.3711/2017 filed for early hearing came up for hearing

before this Court on 03.03.2017. It was listed for the date fixed i.e. 16.03.2017.

3. On 16.03.2017, it was informed that State has filed an application for cancellation of bail and the next date of hearing before the Trial Court was 21.03.2017.

4. Learned Senior Counsel for the petitioner urged that due to inadvertence, the bail application moved before this Court could not be withdrawn. The petitioner had filed the application for regular bail before the Sessions Court on parity with co-accused Rajeev who was granted bail on merits by an order dated 13.02.2017.

5. I have examined the Trial Court record. Apparently, at the time of filing the application for bail under Section 439 Cr.P.C. before the Sessions Court (taken up for consideration on 13.02.2017), the petitioner was aware of the pendency of his regular bail application before this Court. The petitioner had not withdrawn the present bail application before moving the bail application under Section 439 Cr.P.C. before the Sessions Court. In an attempt to conceal the factum of pendency of bail application before this Court, only in para No.15, it was averred that the bail application under Section 439 Cr.P.C. was pending before the High Court and the petitioner would withdraw it. There was no valid reason for the petitioner to move the application without first withdrawing the bail application before this Court.

6. At the time of consideration of bail, neither the petitioner nor his counsel and even the Investigating Officer / Pairvi Officer representing the State did not bring it to the notice of the Court about

pendency of the bail application under Section 439 Cr.P.C. before this Court. Needless to say, there was concealment of fact while seeking bail before the Sessions Court.

7. It is informed that the application for cancellation of bail filed by the State is under consideration. Impact of pendency of bail application before this Court shall be taken to consideration at the time of its disposal on merits by the Trial Court.

8. The present bail application stands disposed of with above observations. Pending applications also stand disposed of.

S.P.GARG, J.

MARCH 28, 2017 / tr /