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

+ BAIL APPLN. 399/2017

IDRISH

..... Petitioner

Through Mr.A.K. Sharma, Adv.

versus

STATE

..... Respondent

Through Mr.Akshai Malik, APP with Insp.
Vipin Kumar Sharma and SI C.B.
Sharma, PS New Usmanpur.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

% **17.03.2017**

Arguments heard.

The present application has been filed under Section 439 read with Section 482 Cr.P.C. for the grant of regular bail in FIR No.937/2015, under Sections 395/397/412/120-B IPC, Police Station New Usmanpur.

The allegations levelled in the present case are that the FIR of the present case was registered on the basis of statement of the complainant Sushil Kumar. The complainant had stated to the police that on 31.08.2015, he was carrying cash worth Rs.9,59,430/- of his company and he was on his way back to his home on a motorcycle. At about 08.30 p.m. when he reached on the left hand side of Khajoori Chowk, he was stopped by four men who were riding on two motorcycles and robbed his bag containing cash on gun point and

ran away towards Wazirabad. At the same time, Insp. Vipin Kumar Sharma along with HC Pradeep was coming in a private car. The complainant raised an alarm and the robbers were chased after which two robbers, namely, accused Mashroof and Rizwan were apprehended. One country made pistol and three live cartridges were recovered from accused Mashroof.

During the course of investigation, it was revealed that a criminal conspiracy was hatched by seven accused persons including the petitioner/accused. It was alleged that at the time of incident, accused Idrish along with Shamshad was available on another motor cycle at Khjoori Chowk for covering their associates. It was further alleged that the looted amount of Rs.2,40,000/- was recovered from accused Idrish.

Argument advanced by the counsel for the petitioner is that no case under Section 395 IPC is made out against the petitioner as there were only four robbers at the time of incident as per the statement of the complainant and only the case under Section 392 IPC is made out and not under Section 395 IPC. It is further submitted that accused Idrish was not one of the robbers and there is no evidence of hatching a criminal conspiracy.

On the other hand, learned APP for the State has opposed the bail application on the ground that accused Idrish was one of the conspirators of the dacoity. There are total seven accused involved in the present case including accused Idrish. It is further submitted that the looted amount of Rs.2,40,000/- was recovered from the accused.

From the submissions made by the parties, it is apparent that

the investigation in the present case is already complete and charge sheet has already been filed in the Court and the matter is fixed before the trial court for framing of charge. The contention of the counsel for the accused that no case under Section 395 and 120-B IPC is made out against him is a matter to be considered by the trial court and this is not the stage to make any comment on the same as the matter is pending consideration of charge by the trial court.

In view of the above mentioned facts and circumstances, this Court is not inclined to grant the concession of bail to the accused at this stage.

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 dismissed.

P.S.TEJI, J

MARCH 17, 2017
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