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

+ **BAIL APPLN. 1142/2016**

MUSTAFA

..... Petitioner

Represented by: Mr. Anuj Kapoor, Ms.
Tshawna Gera, Advs.

versus

STATE

..... Respondent

Represented by: Mr. Hirein Sharma, APP with
SI Amrish Giri PS I.P. Estate.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

18.01.2017

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1. By the present petition the petitioner seeks bail in case FIR No.168/2015 under Sections 394/397/364/34 IPC registered at PS I.P. Estate on the complaint of one Pramod Kumar.

2. Learned counsel for the petitioner states that the material witness/ complainant Pramod Kumar has since been examined and he has not identified the petitioner as the person involved in the above offence. Further, no number of TATA 407 allegedly used by the main accused was given. No recovery of the TATA 407 allegedly owned by the petitioner was made and the entire prosecution case against the petitioner is based on the disclosure statement of co-accused.

3. The above-noted FIR was registered on the complaint of Pramod

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Kumar who alleged that he was a driver in Lohia Alloys Ltd., Sonipat, Haryana. On 2nd April, 2015 he was driving his truck No. HR-69B-8364 while going to Sonipat. When he reached at ITO flyover at about 2.00 AM in the night his truck was overtaken by a Tata 407 where after he stopped his truck. Two boys came out of Tata 407 and pushed him from the driver's seat. Two others also joined and started beating him. After that they took him away with truck No. HR-69B-8364. Later Pramod Kumar was shifted to one Tata 407 and his hands were tied and he was finally thrown in the garbage near DDU Hospital. He also stated that his mobile phone and ₹6700/- were robbed. In his subsequent statement Pramod Kumar stated that six persons were involved in the incident and thus Section 395 IPC was also added.

4. Surveillance was kept on the mobile phone of the complainant which had been robbed and it was found to be activated in the name of one Javed R/o Jakir Nagar, Delhi. On interrogation Javed revealed that he had given his ID to his brother-in-law Ragib. Pursuant to a raid Ragib and Danis were apprehended and the robbed mobile phone of Pramod Kumar was recovered from the possession of Ragib. During the disclosure statement the co-accused stated that the petitioner provided the Tata 407.

5. The Tata 407 allegedly used in the offence has not been recovered. No number of Tata 407 is provided and since the petitioner was obviously not at the spot he was not identified by the complainant Pramod Kumar. The case against the petitioner is based on disclosure statements of co-accused and whether he is linked in the chain of evidence will be seen after all the witnesses are examined. Needless to state that main material witness

Pramod Kumar has already been examined and the trial is likely to take some time and he is not involved in any other offence. Thus, this Court finds it fit to grant bail to the petitioner. It is therefore directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with two sureties of the like amount subject to the satisfaction of the learned Trial Court, further subject to the condition that he will not leave the State of Delhi and Uttar Pradesh without the prior permission of the Court concerned and in case of change of address the same will be informed to the Court by way of an affidavit.

6. Petition is disposed of. Order dasti.

MUKTA GUPTA, J.

JANUARY 18, 2017
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