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

+ BAIL APPLN. 658/2017

BAIDNATH SAH

..... Petitioner

Through Mr.Gopal Jha, Adv.

versus

STATE (NCT) OF DELHI

..... Respondent

Through Mr.Kewal Singh Ahuja, APP.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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19.04.2017

Arguments heard.

The present application has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.421/2016, under Section 381/34 IPC, Police Station Rajouri Garden.

The allegations levelled are that the complainant filed a complaint to the police that he had two servants namely Deepak and Raju working in his house for the last three weeks. On 13.03.2016 he left the house at about 8.30pm along with his family for dinner. When he came back at 10.45pm he found the door of his house open. He saw the locks of the room were broken and all jewellery sets and cash worth Rs. 1, 50,000 were missing.

On the basis of the complaint made by the complainant, FIR was lodged in the present case on 14.03.2016 and on 29.03.2016 the investigation was transferred to crime branch. During investigation it

was revealed that one Soman Kumar Mukhia was earlier working as servant with the complainant and he arranged Deepak and Raju as servants in the house of complainant as he had to attend his sister's marriage. On 04.04.2016 Soman Kumar Mukhia was arrested who admitted that he hatched a conspiracy and in pursuance of the same, his associate Ramashish sent Rahul Mukhia alias Raju and Deepak Mandal to him and he arranged their job at the house of complainant. On 24.10.2016 it was found that accused Ramashish was lodged in Pujhal Jail, Tamil Nadu and he was arrested in the present case on 22.02.2017. During interrogation he disclosed that all the stolen articles were sold to petitioner/accused Baidnath Sah. On 25.02.2017 accused/petitioner was arrested from his jewellery shop who disclosed that he received all the stolen jewellery from accused Ramashish, Deepak, Rahul for Rs. 26 lacs out of which he paid them Rs. 16 lacs. He also admitted that he had sold all the diamond and stone jewellery to one Ashok Kumar Shah and made fresh gold jewellery from stolen jewellery.

Argument advanced by the counsel for the petitioner/accused is that he has not committed any offence. There is no criminal background of the petitioner. It is alleged that one tola gold article has been recovered from the petitioner which was prepared after melting the original one. Nothing is remained to be recovered from the petitioner. The petitioner is in custody since 25.02.2017.

It is apparent from the record that there is no allegation of commission of theft against the petitioner. The only allegation levelled against the petitioner is that some stolen articles were

recovered from him. It is matter of fact that the petitioner is in custody for the last about two months and nothing more is to be recovered from him or at his instance.

In view of the above mentioned facts and circumstances, the application is allowed. It is hereby ordered that the petitioner/accused be released on bail on furnishing the personal bond in the sum of Rs.20,000/- with one surety in the like amount to the satisfaction of the court concerned. The petitioner is directed to join the investigation as and when required. He is directed not to tamper with the evidence and influence the prosecution witnesses. He is further directed not to 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.

The application is accordingly disposed of.

P.S.TEJI, J

APRIL 19, 2017
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