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

+ BAIL APPLN. 2098/2016

SUSHIL KUMAR

..... Petitioner

Through: Mr.Pradeep Chowdhary, Adv. with
Mr.Vikrant Chowdhary, Adv.

versus

STATE (GNCT OF DELHI)

..... Respondent

Through: Mr.Kewal Singh Ahuja, APP for State with
PSI Sudhir Rathee, PS-Hari Nagar

CORAM:

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

% **13.01.2017**

This is an application under Section 439 Cr.P.C. filed on behalf of the petitioner seeking grant of regular bail in case FIR No.243/2012, under Sections 302/396/34 IPC, registered at Police Station-Hari Nagar, Delhi.

Counsel for the petitioner has submitted that the petitioner is an innocent person and the allegations alleged against the present petitioner is false. He has further submitted that the petitioner was arrested on the basis of circumstantial evidence and as per prosecution there was recovery of Rs.3,000/- from the petitioner. He has submitted that the CCTV footage is not of the place of the incident. He has further submitted that all the material witnesses have been examined by the prosecution but nothing incriminating evidence has come on record against the present petitioner. He has further submitted that the remaining witnesses proposed to be examined by the prosecution are formal in nature and no prejudice would be caused if the petitioner is released on bail. He has further submitted that the petitioner is in judicial custody since 17th July, 2012 and not required for further investigation in the present case. He has further submitted that trial is not likely to conclude in near future and the continued incarceration of the petitioner will not serve any purpose and prays

that the petitioner be released on regular bail.

Learned APP for the State has vehemently opposed the bail application and has submitted that the petitioner has been identified in the CCTV footage and subsequently Rs.3,000/- was recovered from the petitioner. He has submitted that out of four accused only two accused have been identified by the material witnesses. He has admitted that the material witnesses have not identified the petitioner as one of the accused.

It is an admitted case of both the parties that the petitioner right now is in judicial custody since 17th July, 2012. It is also an admitted fact that the material witnesses have not identified the petitioner as one of the accused.

Looking in the above facts and circumstances, since all the material witnesses have been examined by the prosecution and the fact that material witnesses have not identified the petitioner as one of the accused and the petitioner is stated to be in judicial custody since 17th July, 2012, no purpose would be served if the petitioner is kept in judicial custody as the trial is likely to take some time, consequently, the petitioner is granted bail on his furnishing a bail bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Court below with the condition that he should not influence the prosecution witnesses; 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 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

JANUARY 13, 2017/radhika