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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2287/2016**
DEEPAK

..... Petitioner

Through: Mr. Jai Subhash Thakur, Advocate

versus

STATE

..... Respondent

Through: Mr. Mukesh Kumar, APP

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
14.03.2017

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The petitioner has preferred the present bail application to seek regular bail in case FIR 578/2014 registered u/s 392/34 IPC. The charge sheet already stands filed in this case and the trial is in progress.

The submission of counsel for the petitioner is that the petitioner was not arrested at the time of occurrence of the alleged crime. He has been arrested only on the basis of a disclosure statement made by the other accused. He further submits that the other accused in the case were granted bail by the Trial Court. The petitioner has already been incarcerated for about 33 months.

He further submits that the trial is not progressing since the other accused who were granted bail did not join the trial and some of them have

been taken into judicial custody upon issuance of NBWs.

Mr. Kumar has referred to the status report dated 15.12.2016. Since the same is not found on record, he has tendered in court another copy and the same has been taken on record. According to the status report, Rs.1 lakh out of the looted amount of Rs.2.85 lakhs has been recovered from the petitioner.

In the present bail application on 09.11.2016, this court directed the Trial Court to expedite the recording of statement of independent witnesses including the victim. Since the case was coming up on 09.01.2017, this court had directed that recording of evidence of the complainant and the other independent witnesses be not delayed and that the matter was directed to be placed before the Trial Court on 18.11.2016, when the prosecution was directed to produce independent witnesses including the victim for their examination. Thereafter, when the case was taken up on 04.01.2017, it was informed to the court that the independent witness including the victim had not been examined.

It was informed to the court that their examination could not proceed since the other accused were absconding. The matter was adjourned to 09.02.2017. On the said date, once again it was informed that two of the co-accused were absconding and therefore the trial was not progressing. This court directed the Trial Court to take appropriate steps so that the petitioner's case may be separated from that of the others. It is informed that no steps have been taken by the Trial Court in this regard. One of the accused Pradeep @ Vicky is still absconding and Mr. Kumar states that NBWs have been issued against him for his arrest.

In view of the aforesaid position, in my view, there is no justification to deny bail to the petitioner. The petitioner is in judicial custody since 12.06.2014. The investigation is already complete and the charge sheet already stands filed and the trial is in progress. Accordingly, the petitioner is directed to be released on bail upon furnishing his personal bond with two sureties in the sum of Rs.50,000/- each to the satisfaction of the Trial Court. The petitioner shall provide his mobile phone number to the Trial Court, which shall be kept in working condition at all times and the same shall not be changed without prior intimation to the Trial Court. He shall not contact any of the witnesses or tamper with the evidence in the matter

Dasti.

VIPIN SANGHI, J

MARCH 14, 2017

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