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

+ BAIL APPLN. 2158/2017

AJENDER PRATAP SINGH

..... Petitioner

Through: Mr.Harvir Singh, Advocate

versus

STATE GNCT OF DELHI

..... Respondent

Through: Ms.Rajni Gupta, APP for the State
with SI Pankaj Tomar, PS Lahori
Gate.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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30.10.2017

CrI.M.A.No.17563/2017

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

Bail Appln. No.2158/2017

1. The petitioner is seeking regular bail in case FIR No.215/2014, registered under Sections 395/397/307/412/506/353/186/34 IPC & 25/27 Arms Act, PS Lahori Gate.
2. Notice. Learned APP as above accepts notice on behalf of the State and files the status report.
3. While disposing of the application for early hearing of bail applications filed under Section 439 Cr.P.C., learned Trial Court has observed that the testimony of the public witnesses is yet to be completed and the release of the applicants at this stage may prejudice the trial.

Previous bail applications of both the accused Nitin Tokas and Ajender Pratap Singh have been dismissed and there is no change of circumstances since the dismissal of the earlier bail applications. The bail application cannot be preferred only for trying the luck on the change of the presiding officer.

4. Learned Trial Court has relied upon the decision in ***State of Tamil Nadu vs. S.A. Raja*** Appeal (Crl.) 1470 of 2005, decided on 26th October, 2005 wherein the Hon'ble Supreme Court has held as under:

“Of course, the principles of res judicata are not applicable to bail applications, but the repeated filing of the bail applications without there being any change of circumstances would lead to bad precedents.”

*In the case of **Harish Kathuria & Anr. vs. State**, Bail Application No.1135/2011, decided on 18th August, 2011 the Hon'ble High Court of Delhi has observed as follows.*

“The petitioners have wasted valuable time of the Court. It is the kind of frivolous petitions which have clogged the arteries of justice and consequently, the cases where the accused are in custody, they get relegated to the background for want of engaging counsel or proper legal assistance.

The power to grant anticipator bail is concurrent both with the Court of Sessions and the High Court. As a matter of practice, the counsel files an application before the Court of Sessions and on not finding favour there, a second application is immediately filed in the High Court. Successive bail applications can be filed as has been held in the catena of judgments but then it has been observed that there must be change in circumstances which warrant fresh consideration of the application. Successive bail applications

without there being any change in circumstances is not only to be deprecated but is in effect a gross abuse of the process of law which must be visited with some amount of sanction by way of cost for wasting the time of the Court. There are cases of persons who are languishing in jail for wanting their appeals to be heard for want of time while as unscrupulous persons like the petitioners, who have embarked on a forum shopping or rather be called a bench hopping, are wasting the time of the Court.”

5. While dismissing the bail applications learned Trial Court was of the view that the nature of the offence alleged to have been committed by the petitioner is serious in nature and if released on bail the accused may indulge in commission of similar offences.

6. In the status report filed by the State, the presence of the petitioner at the spot has been captured though CCTV footage. The relevant portion of the status report reads as under:

“During the course of investigation CCTV Footage of the adjoining area was taken into police possession. In that CCTV Footage all accused persons were captured. Accused Ajender Pratap Singh was also seen in CCTV Footage. CCTV Footage was sent to FSL for opinion. The FSL report was received and no alteration was found in that Footage. It is very much clear that at the time of commission of offence he was present with his associate at the place of incident.

7. Learned APP for the State has also submitted that if the petitioner is released on bail there is possibility that the petitioner may try to influence the witnesses. He is also not a permanent resident of Delhi and he may jump the bail.

8. The petitioner is facing trial in case FIR No.215/2014 under Sections 395/397/307/412/506/353/186/34 IPC & 25/27 Arms Act. Today, during

the course of hearing of this bail application, the presence of the appellant at the scene of crime captured by CCTV could not be disputed by the learned counsel for the petitioner.

9. Taking into consideration the nature and gravity of the offence and that material witnesses are yet to be examined, the bail application is dismissed.

PRATIBHA RANI, J.

OCTOBER 30, 2017

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