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

+ **BAIL APPLN. 2433/2017**

HANSRAJ

..... Petitioner

Through: **Mr.Daviender Hora & Mr.Sikandar
Khan, Advocates**

versus

STATE NCT OF DELHI

..... Respondent

Through: **Mr.Kewal Singh Ahuja, APP for the
State with Inspector Sandeep Kumar
PS Paschim Vihar**

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **28.11.2017**

CRL.M.A.19625/2017

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

BAIL APPLN.2433/2017

1. By way of this application under Section 439 Cr.P.C, read with Section 482 Cr.P.C., the petitioner is seeking regular bail in FIR No.296/2016, under Section 449/392/302/411/120B/34 IPC.
2. Notice. Learned APP as above accepts notice on behalf of the State and files the status report with copy to the learned counsel for the petitioner.
3. Learned counsel for the petitioner has submitted that except the alleged recovery of ₹2 lakh from the petitioner from his house, there is no

incriminating evidence to connect him with the crime. It has been further submitted that all the public witnesses have been examined, hence, there is no chance for the petitioner to influence the public witnesses. He has been in custody since his arrest on 10th July, 2016 i.e. for a period of 1 ½ year, hence, he may be released on bail.

4. Learned APP for the State has strongly opposed the application contending that the amount of ₹2 lakh which was alleged to have been recovered from the present petitioner was out of the robbed amount of ₹12 lakh. It has also been contended that the lady of the house Smt. Krishna was murdered and cash of approximately ₹12 lakh was robbed from her house hence in view of the serious nature of the offence, bail application may be dismissed.

5. Learned Trial Court while examining the contention of the petitioner for release on bail has noted the contention of the petitioner that location of his mobile was not established to be near the place of occurrence but at his residence in Mangol Puri. Suffice it to note here that location of mobile is not always the location of the person in whose name the SIM is registered and this is a subject matter of trial.

6. In a recent report ***Pratapbhai Hamirbhai Solanki vs. State of Gujarat and Anr.*** 2012 (1)) Scale 237, the Supreme Court has reiterated the settled legal principles to be considered while granting or refusing bail as under:-

*“15. At this juncture, we may refer with profit to certain authorities which lay down the considerations that should weigh with the Court in granting bail in non-bailable offences. This Court in **State v. Capt. Jagjit Singh** (1962) 3 SCR 622 and **Gurcharan Singh v. State (Delhi Admn.)** (1978) 1 SCC 118 has held that the nature and seriousness of the offence; the character of the evidence; circumstances which are peculiar to the accused; a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehension of witnesses being tampered with; the larger interest of the public or the*

*State and other similar factors which may be relevant in the facts and circumstances of the case are to be considered. The said principles have been reiterated in **Jayendra Saraswathi Swamigal v. State of T.N.** (2005) 2 SCC 13.*

*16. In **Prahlad Singh Bhati v. NCT, Delhi and Anr.** (2001) 4 SCC 280, this Court has culled out the principles to be kept in mind while granting or refusing bail. In that context, the two-Judge Bench has stated that while granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.*

*17. In **State of U.P. through C.B.I. v. Amarmani Tripathi** (2005) 8 SCC 21, while emphasizing on the relevant factors which are to be taken into consideration, this Court has expressed thus: -*

While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused.

In the said case, the Bench has also observed as follows: -

Therefore, the general rule that this Court will not ordinarily interfere in matters relating to bail, is subject to exceptions where there are special circumstances and when the basic requirements for grant of bail are completely ignored by the High Court."

7. The alleged mastermind Dheeraj, who was earlier an employee of the husband of the deceased, had made calls at the landline number of the deceased to ascertain her presence at the house. It was only during

interrogation of the main accused, namely, Dheeraj that name of the present petitioner Hansraj and other co-accused surfaced.

8. Taking into consideration the serious nature of the allegations against the present petitioner from whom part of the robbed amount has also been allegedly recovered, I do not find it to be a fit case to release him on bail.

9. The application is dismissed.

PRATIBHA RANI, J.

NOVEMBER 28, 2017

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