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

+ **BAIL APPLN. 2391/2017**

HARCHARAN SINGH

..... Petitioner

Through: Mr.Sudarshan Rajan & Mr.Arjun
Gadhoke, Advocates

versus

STATE

..... Respondent

Through: Mr.Kewal Singh Ahuja, APP for the
State with SI Sandeep Shrivastava
PS Maurya Enclave

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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22.11.2017

CrI.M.A. No.19280/2017

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

BAIL APPLN.2391/2017

1. By way of this application filed under Section 439 Cr.P.C., the petitioner is seeking regular bail in case FIR 272/2014, under Section 392/397/34 IPC, registered at PS Maurya Enclave on the ground that material witness have already been examined by the prosecution and the co-accused Avtar Singh, who was also identified during TIP and assigned the same role by the prosecution as to the present petitioner, has been granted bail by this Court vide order dated 7th September, 2017.

2. Notice. Learned APP as above accepts notice on behalf of the State and submits the status report.
3. Learned counsel for the petitioner has referred to the statement of PW-2, the complainant (Annexure P-2) and submitted that the present petitioner is on the same footing so far as the role is concerned, rather on better footing to the extent that while Avtar Singh, the co-accused was identified by the complainant during TIP, the present petitioner refused to take part in TIP.
4. Learned APP for the State has opposed the prayer for grant of bail contending that the present petitioner was carrying chilli powder at the time of occurrence and in view of the involvement in more than one case, he may not be granted bail.
5. However, learned APP for the State does not dispute the submission made on behalf of the petitioner to the extent that though identified during TIP, co-accused Avtar Singh has been granted bail.
6. Vide order dated 7th September, 2017 while granting bail to the co-accused Avtar Singh (in Bail Appln. No.1262/2017), with whom the petitioner is claiming parity, the reasons given and the conditions imposed are as under:

'Though the petitioner has been identified by the complainant in the TIP, but such identification, prima facie, appears to be doubtful at this stage.

The petitioner is said to be in custody since 22.05.2014.

In the trial, about 20 witnesses have been examined and many more are still to be examined. There is, thus, no possibility of the trial being concluded in the near future.

Taking into account the nature of accusation against the petitioner, his period of custody and almost a remote possibility of the trial being concluded in near future, this Court is inclined to grant bail to the petitioner during the pendency of the application.

The petitioner is directed to be released on bail, on his furnishing a bond in the sum of Rs.5000/- with one surety of the like amount to the satisfaction of the Trial Court.

The petitioner shall, however, not involve himself in any unlawful activity and would participate in the trial. If the petitioner absents himself from the trial proceedings on two consecutive occasions, without a plausible reason and without permission from the Trial Court, it would be open for the State to move for cancellation of his bail.

The application is disposed of.'

7. For the reasons given while granting bail to the co-accused Avtar Singh, who has been attributed identical role but identified during TIP, the petitioner has refused to take part in TIP and that material witnesses have already been examined, the petitioner is directed to be released on bail, on the same terms and conditions as imposed on the co-accused Avtar Singh (vide order dated 7th September, 2017 passed in Bail No.1262/2017) on his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the Trial Court/Link Court.
8. The application is disposed of.
9. As prayed, copy of the order be given dasti to learned counsel for the parties.

PRATIBHA RANI, J.

NOVEMBER 22, 2017/ 'hkaur'