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

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Judgment delivered on: 05.02.2018

+ BAIL APPLN. 293/2018

KARTIK SOLANKI

..... Petitioner

versus

STATE (NCT OF DELHI)

..... Respondent

Advocates who appeared in this case:

For the Petitioner :

Mr K.K.Sharma, Senior Advocate with Mr
Sameer Chandra and Mr Rajesh Kaushik
Mr Akshai Malik, Addl. PP for the State.
Insp Prem Kumar.

For the Respondent :

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

05.02.2018

SANJEEV SACHDEVA, J. (ORAL)

Crl. M.A. 2209/2018(exemption)

Allowed, subject to all just exceptions.

BAIL APPLN. 293/2018

1. This is the second petition filed by the petitioner seeking anticipatory bail in case FIR No. 390/2017 under section 419/457/380/34 IPC; Police Station Bhalswa Dairy.

2. It is noticed that the first anticipatory bail application of the petitioner was dismissed by a detailed speaking order dated 03.11.2017. The Court has, *inter alia*, recorded as under:-

“8. It has been revealed from the investigation that the petitioner has been actively involved in the commission of the crime. It has been further revealed through the Call Details Records that on the day of the incident the petitioner was present at the scene of crime from 6:00 PM to 10:00 PM. Further, the CDRs revealed that the petitioner received/made more than 80 calls to the co-accused persons between 27.06.2017 and 28.06.2017 and they continued to remain in constant touch even after the incident. Recovery of remaining robbed property is yet to be made. Moreover, despite specific allegations from the Court of the Addl. Sessions Judge, petitioner did not cooperate in the investigation and thus the chance of the petitioner escaping the procedure of law, tampering with the evidence or threatening the complainant and witnesses exists.”

3. Learned senior counsel for the petitioner submits that the averment of the prosecution that there were more than 80 calls received/made between the petitioner and the co-accused between 27.06.2017 and 28.06.2017 is not substantiated from the record.
4. Learned senior counsel for the petitioner submits that after this order was passed, a complaint making allegations against the SHO concerned was made before the Police Commissioner and the Vigilance Department, consequent to which, proceedings have been transferred to the District Investigating Unit (D.I.U.).
5. Learned Additional Public Prosecutor for the State has produced the case file and the call details record to show that calls were made/received between the petitioner and the other co-accused as noticed in the order dated 03.11.2017 on the first anticipatory bail application.

6. Learned Additional Public Prosecutor for the State further submits that the petitioner is an absconder and proceedings for declaring the petitioner as a Proclaimed Offender (P.O.) have been initiated. Proceedings under Section 82 of the Code of Criminal Procedure (Cr.P.C.) have already been concluded and proceedings under Section 83 Cr.P.C are pending and matter is listed before the Trial Court on 23.02.2018.

7. By a detailed speaking order dated 03.11.2017, this court has rejected the first anticipatory bail application of the petitioner. The CDRs reveal that more than 80 calls were received/made to the co-accused between 27.06.2017 and 28.06.2017 and they continued to remain in touch even after the incident. Recovery of remaining robbery property is yet to be affected. No change in circumstances is pointed out, I am of the view that it is not a fit case for exercise of discretion of grant of anticipatory bail to the petitioner.

8. In my view, the complaint to the Vigilance Department by the petitioner against the concerned SHO is of no consequence and does not entitle him to grant of anticipatory bail.

9. In view of the above, I find no merit in the petition, the same is accordingly dismissed.

10. Order Dasti under signatures of the Court Master.

SANJEEV SACHDEVA, J

February 05, 2018

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