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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ BAIL APPLN. 497/2018
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..... Petitioner

Through: Mr. K.K. Manan, Sr. Adv. with Mr. Kartik Gandotra, Miss Bavya Chauhan, Miss Shivani Kant, Miss Akanksha Malhotra, Miss Rashi Rampal, Miss Udit Bali and Mr. Rohan, Advs.

Versus

STATE (THE NCT OF DELHI)

..... Respondent

Through: Mr. Rajat Katyal, APP for State with Inspector Madan Lal, P.S. Mehrauli.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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05.12.2018

On 16.10.2018, the following orders were passed:

“On 10.07.2018, the following order was passed:-

“The learned counsel for the petitioner submits that of the 15 accused, 14 have been enlarged on bail. The "star eye witness" too has not supported the prosecution case. Therefore, on the same set of facts on which the other co-accused has been enlarged on bail coupled with the fact that there is nothing in the deposition of the eye-witness to incriminate the petitioner, hence he too should be enlarged on bail.

The learned counsel for the State opposes the bail and submits that the test of truthfulness and reliability of the witness has yet to be determined in trial. Besides, the case involves a murder and the petitioner is otherwise involved in two other heinous crimes in FIR no. 12/2004,

under sections 325/34 IPC, P.S. Malvia Nagar and FIR No. 59/2011, under sections 307/323/34 IPC, P.S. Safdarjung Enclave. The learned Senior Advocate for the petitioner submits that proceedings in both the aforementioned FIRs have ended i.e. in FIR No. 59/2011, the petitioner has been acquitted for the charges and in the other FIR, a compromise has been recorded between the parties, therefore, there is nothing pending against the petitioner with regard to those FIRs.

The learned counsel for the State submits that nevertheless the other FIRs show the habitual criminal antecedents of the petitioner. He submits that a number of public witnesses are yet to be examined and the petitioner, if released on bail at this stage, may seek to influence them.

The learned Senior Advocate for the petitioner presses that the matter be kept pending till all the witnesses are examined. It is stated that next date for recording of evidence before the Trial Court is 28.07.2018. Mr. Amit Chadha assures that every endeavour will be made to complete the prosecution's evidence by the end of September, 2018.

Renotify on 15.10.2018."

Mr. Manan, the learned Senior Counsel for the petitioner submits that in the last 10 weeks, nothing much has transpired, except for the fact that no public witness remains to be examined and that the case is nowhere near completion; the remaining witnesses are formal witnesses, who will depose apropos records over which the petitioner cannot have any sway, if he is released on bail.

Mr. Chadha, the learned counsel for the State submits that out of nine public witnesses i.e. private individuals viz. (i) Mr. Niwas Bhale, (ii) Mr. Surender Kaur, (iii) Mohd. Imran Khan, (iv) Mr. Bidniya Babu Singh, (v) Ms. Manjula Jain, (vi) Mr. Tanuj Kalra, (viii) Mr. Pitamber, (viii) Mr. Sumit remain to be examined to prove the circumstances

obtaining and related to the alleged crime. Listed witness Mr. Shanmugam has since expired. He submits that the case is now listed for recording of evidence on 20.10.2018, on which date, two doctors and one police officer have been called.

In the circumstances, the learned Trial Court is requested to expedite the recording of the evidence of the aforesaid persons and endeavour to complete the same by 16.11.2018.

List on 30.11.2018.

Mr. Manan, the learned Senior Advocate for the petitioner refers to order dated 03.11.2018 of the Trial Court which has recorded the evidence of all the eight public witnesses. He submits that none of the public witnesses have supported the case of the prosecution. All the co-accused have already been granted bail. The petitioner has been incarcerated since 15.03.2015.

In the circumstances, the petitioner is directed to be released on bail on his furnishing a personal bond in the sum of Rs.1,00,000/- (Rupees One Lac only) with two sureties of the like amount to the satisfaction of the Trial Court, concerned subject to the following conditions:-

- (i) the petitioner will regularly appear on each and every date of hearing to be fixed by the Trial Court concerned;
- (ii) the petitioner will not try to influence, contact or meet the complainant and prosecution witnesses in any manner;
- (iii) the petitioner will not leave the country without prior permission of the Court and the passport, if any, shall be deposited with the Trial Court concerned; and
- (iv) in case of change of his new address or contact number, the petitioner

will promptly intimate to the SHO/IO of the case and intimate the Trial Court.

The petition stands disposed-off in the above terms.

A copy of this order be given *dasti* to the learned counsel for the parties under the signature of the Court Master.

NAJMI WAZIRI, J.

DECEMBER 05, 2018

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