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

+ BAIL APPLN. 657/2018 and CrI.M.A.5575/2018

NAWAAB HASSAN

..... Petitioner

Through: Mr. Bankim K. Kulshrestha, Adv.
with Mr. V.S. Nirmal, Adv.

versus

THE STATE OF NCT OF DELHI & ANR

..... Respondents

Through: Mr. Arun Kumar Sharma APP for the
State with SI Ravinder, PS Jaffarabad

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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02.07.2018

The applicant is an accused summoned and facing prosecution in criminal case (SC No.424/17) registered on the basis of charge-sheet submitted on conclusion of investigation into case FIR No.373/2017, Police Station Jaffarabad, on 18.08.2017 at 02:25 hours respecting an incident that allegedly took place at 22:50 hours on 17.08.2017. As per the copy of the charge-sheet which has been submitted, the State seeks the applicant to be tried for offences punishable under Section 307 of IPC and 27 of the Arms Act.

As per the copy of the arrest memo, the applicant was placed under arrest at 9:30 p.m. on 18.08.2017 from certain place at main road described as 66 *foota* road, Delhi in the area of Jaffarabad Delhi during the investigation of this case. The applicant had moved an application before the trial court for release on bail pleading false implication. The said

application, however, was dismissed by order dated 16.03.2018 by the Additional Sessions Judge (ASJ). Pertinent to add here that the case is at the stage of consideration of charges to be framed. Though it appears arguments were heard on 23.04.2018, the matter is still to be adjudicated upon in that regard.

The prime contention urged by the counsel for the applicant is that the applicant was detained at 13:22 hours on 17.08.2017 from his residence and thereafter wrongfully shown arrested at 9:30 p.m. on 18.08.2017. It is the submission of the applicant that the fact that he was picked up at the aforementioned hours on 17.08.2017 can be demonstrated and substantiated by a CCTV footage, copy whereof was obtained from a local shopkeeper of the area which was given to the police on 15.03.2018 with copy of the application which was moved in the court of sessions.

The counsel argued repeatedly, even though his attention was drawn to the inherent discrepancy in his submission, that the CCTV footage clearly shows the time and date of the applicant being picked up as 13:22 hours on 17.08.2017. The counsel, on being asked submitted that it is difficult to disclose the name of the shopkeeper or the particulars of the establishment from which the CCTV footage was obtained nor is it possible to give certificate under Section 65-B of the Evidence Act. If this were to be the position, there is hardly a case made out for reliance to be placed on such material as CCTV footage as is being presented in support of the contentions. Even otherwise, if the aforementioned time and date of the applicant being picked up wrongfully, as per the submissions of the applicant, as shown by the CCTV footage relied upon were to be accepted, it

would not lend any credence to the arguments being made inasmuch as the offence itself took place at 22:50 hours on 17.08.2017.

There are clear allegations, by name, attributing the role to the applicant of he having used a fire arm to cause injury to the first informant, such act having been committed in the wake of certain dispute over money. It may be that the FSL report draws a blank as to the presence of gun powder on the hands of the applicant at the time he was taken for such examination post his detention. But such report by itself does not mean the first informant is to be disbelieved right away.

Having regard to the serious allegations against the applicant, no case for bail is made out at this stage.

Dismissed.

R.K.GAUBA, J.

JULY 02, 2018

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