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

+ **BAIL APPLN. 1808/2018**

AYUSH SHARMA

..... Petitioner

Through: Mr. K. K. Manan, Senior Advocate
with Ms. Bhavya Chauhan,
Mr. A. Malhotra, Ms. Shivani Kant,
Mr. Rashi Rampal, Mr. Shikhar
Tandon, & Mr. Mukul Aggarwal,
Advs.

versus

STATE (THE NCT OF DELHI)

..... Respondent

Through: Mr. K.S. Ahuja, APP for the State
Mr. R.P. Luthra, Adv. for the
complainant.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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25.10.2018

The status report has been filed.

The Sessions Court presiding over the trial by its order dated 11.07.2018 has declined release of the petitioner on bail referring, *inter alia*, to certain evidence including the recovery of a motor vehicle (*scooty*) registered in his name, allegedly used in the crime, from the scene of occurrence and his telephonic contact with the co-accused persons, though observing (at fourth page) that the CCTV footage which was played in the court would not depict the presence at the place of occurrence.

The investigating agency through the learned Additional Public Prosecutor submits that the above mentioned impression gathered by the

trial court at the stage of dealing with the bail application was not correct as presence of the petitioner at the scene of occurrence around the time of the incident moving on a motorcycle, as disclosed by him during interrogation is confirmed by the CCTV footage. It is not clear from the order dated 11.07.2018 of the court of Sessions as to at whose instance or with whose assistance it was confirmed that the presence of the petitioner is not depicted in the CCTV footage.

It was conceded by all sides that the person who was in control of the CCTV system has not yet been examined. Similarly, the witnesses who statedly would be in a position to positively identify the petitioner as a person moving on the motorcycle at the relevant place from the CCTV footage are also yet to be examined.

At this stage, the learned senior counsel submitted that he may be permitted to withdraw the present petition, though given the liberty to move afresh before the trial court, after the aforementioned witnesses have been examined, his further request being that the trial court may be directed to expedite examination of the witnesses referred to above including the victim.

The petition at hand is dismissed as withdrawn. The trial court is directed to expedite recording to the evidence of the above mentioned witnesses including the victim of the offence. The petitioner will have the liberty to move a fresh bail application before the trial court after such witnesses have been examined.

R.K.GAUBA, J.

OCTOBER 25, 2018/vk
BAIL APPLN. 1808/2018

Page 2 of 2