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

+ CRL.M.C. 4259/2018

KARTIK SOLANKI

..... Petitioner

Through

Mr. Mohit Mathur, Sr. Adv with
Mr. Rajesh Kaushik & Mr. Sameer
Chandra, Advs

versus

STATE (NCT OF DELHI)

..... Respondent

Through

Ms. Manjeet Arya, APP for State
Insp. Surender, DIU/NW

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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28.08.2018

Vide order dated 9th July, 2018, petitioner was declared a Proclaimed Offender. Petitioner filed a Revision Petition before Sessions Court which was dismissed on 7th August, 2018. That is how petitioner is before this Court under section 482 Cr.P.C.

It is an admitted fact that charge-sheet has been filed against the co-accused. A perusal of charge sheet shows that petitioner had joined investigation. His name was entered in column no.12 on the pretext that some further investigation was pending against him. Petitioner had applied for anticipatory bail before the Trial Court which was dismissed. Petitioner approached this Court seeking anticipatory bail which was also dismissed. On 3rd November, 2017, petitioner filed SLP before the Supreme Court which was also dismissed vide order dated 21st March, 2018, however, petitioner was advised to approach Trial Court for regular bail. Supreme Court protected the petitioner

from arrest for four weeks.

Petitioner filed an application under section 437 Cr.P.C. before Trial Court. He was present in the Court when application under section 437 Cr.P.C. was taken up for hearing on 23rd April, 2018. Petitioner was again present in the Court on 25th April, 2018 when application under section 437 Cr.P.C. was dismissed. Thereafter, matter was listed before the Link Metropolitan Magistrate on 28th May, 2018. Petitioner appeared before the Court on that date as well. Investigating Officer had also appeared before the Link Metropolitan Magistrate. However, the petitioner was not taken into custody by the Investigating Officer. On 9th July, 2018, on an application filed by the Investigating Officer, petitioner was declared 'proclaimed offender'.

It cannot be said that the petitioner had been evading arrest since he had appeared on 23rd April, 2018 and also on 28th May, 2018 when the Investigating Officer was also present but did not take the petitioner into custody, for the reasons best known to him.

In view of the above discussion, I am of the view that the Trial Court has erred in proceeding the petitioner a proclaimed offender. Accordingly, impugned order is set aside. Petitioner will cooperate in investigation and will appear before the Investigating Officer on 6th September, 2018 at 4:00 PM.

A.K. PATHAK, J

AUGUST 28, 2018

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