

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

Date of Order: January 14, 2019

+ **BAIL APPLN. 70/2019 & CRL. M.A. 592/2019**

ROSHAN

.....Petitioner

Through: Mr. Ashwani Kumar Sharma,
Advocate

Versus

STATE

.....Respondent

Through: Mr. M.P.Singh, Additional Public
Prosecutor for respondent-State
with ASI Sanwal Ram

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Petitioner seeks pre-arrest bail in FIR No. 909/2018, under Sections 323/365/34 IPC, registered at police station Aman Vihar, Delhi on the ground that the FIR in question, registered on 15th September, 2018 at 09:00 p.m., is a counter blast to FIR No. 877/2018 registered at the instance of father of petitioner against complainant of this FIR, which was registered on 5th September, 2018 alleging theft of jewellery, cash etc. The worth of jewellery stolen is said to be approximately ₹20,00,000/- and besides it, cash amount of ₹20,00,000/- has been also stolen.

Counsel for petitioner submits that complainant of FIR in question, has been named as one of the accused in FIR registered regarding theft. It

is submitted by petitioner's counsel that in the FIR registered regarding theft, one *Gaurav* is named, who is absconding. Learned counsel for petitioner further submits that CCTV footage of incident in question has been handed over to the police but no investigation in this regard has been conducted and so, it is a fit case to grant pre-arrest bail to petitioner.

Mr. M.P.Singh, Additional Public Prosecutor, accepts notice on behalf of respondent No.1-State and submits that in the FIR registered regarding theft, nothing incriminating has been found against said *Gaurav*, who was recovered on 14th September, 2018 and in his supplementary statement recorded under Section 161 Cr.P.C., he has named petitioner as one of the accused, who had kidnapped and assaulted complainant to compel him to admit having committed theft. It is submitted that number of cases are pending against the complainant of the FIR registered regarding theft and custodial investigation of petitioner is required for recovery of mobile phone, car and to apprehend co-accused of petitioner, who are absconding. Learned Additional Public Prosecutor for respondent-State further submits that according to complainant of FIR in question, *Gaurav* was missing, whereas according to victim he had been kidnapped. It is also submitted by learned Additional Public Prosecutor for respondent-State that version put-forth by victim is duly supported by statement of eye witness and that in the CCTV footage, said *Gaurav* is not seen.

Upon hearing and on perusal of FIR of this case, I find that complicity of complainant in the theft case is *prima facie* not forthcoming at this stage. The allegations levelled against petitioner are of serious

nature. In the face of statement made by victim after his recovery, I do not find it to be a fit case to grant *pre-arrest* bail to petitioner.

This application is accordingly dismissed while refraining to comment on the merits of the case.

(SUNIL GAUR)
JUDGE

JANUARY 14, 2019

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