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

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Judgment delivered on: 22.02.2019

+ BAIL APPLN. 262/2019

RAJESH PANDEY

..... Petitioner

versus

STATE (NCT OF DELHI)

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. R.P.S. Bhatti, Adv.

For the Respondent: Mr. Hirein Sharma, APP for the State with SI
Ravinder Kumar.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks regular bail in FIR No. 61/2018 under Sections 392/397/506/411/120-B/34 of the IPC, Police Station Jama Masjid.
2. The subject FIR has been registered on the complaint of an employee of Sanjay Sales Agency.
3. As per the complainant, he was instructed by the owner to transport goods and money in a van from their shop at Fateh Puri, Delhi to the factory at Patparganj, Delhi. It is alleged that the complainant had put four boxes in the back of the van containing

goods and Rs. 15 lakhs in cash. As per the complainant after putting the goods in the back of the van he bolted the lock with a nail and sat in the front seat of the van with driver. En-route to the factory, it is alleged that their vehicle hit another vehicle bearing No. DL 1LCR 4612. It is alleged that three boys were travelling in the said van and they started fighting with the driver of the complainant. After the fight was over, they left the spot. Subsequently, someone pointed out that back door of the van was open. When they checked, it transpired that goods and cash were missing from the van.

4. Chargesheet has been filed. As per the prosecution, the case of the prosecution is that Investigating Officer checked the CCTV footage of the locality and found some boys doing recce of the area. Based on the same, they were apprehended. The petitioner is one of them who were apprehended. It is further alleged that cash of Rs. 1,28,000/- has been recovered from the shop of the petitioner.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated. He submits that the entire story as mentioned in the FIR has changed in the subsequent statement given to the police. The entire narration of incident has changed and in the supplementary statement it is alleged that there was no theft but there was robbery of Rs. 40 lakhs that also at gunpoint.

6. Learned counsel submits that no gun has been recovered but a toy gun is alleged to have been recovered from the shop of the

petitioner. It is submitted that the complainant has stated that in the heat of the moment he mistakenly stated that cash of 15 lakhs was stolen and omitted to mention that he was robbed of Rs. 40 lakhs at gunpoint. Further learned counsel submits that number of the vehicle which was allegedly used in the offence has changed from DL1LCR4612 in the FIR to DL1LCR4212 in the chargesheet.

7. Learned counsel for the petitioner further submits that there is no material to connect the petitioner with the subject offence and the prosecution has not been able to establish as to how from CCTV footage the Investigating officer could zero down to the petitioner as the one who was doing recce of the area.

8. Further it is contended that the alleged recovery of cash from the petitioner is of no consequence, in as much as, neither the number of notes were noted nor there was any marked currency and as such the amount recovered from the petitioner cannot be connected to the subject offence.

9. Status report has been filed and the same is taken on record. The petitioner has been in custody since 29.06.2018. Investigation is complete and chargesheet has already been filed.

10. Without commenting on the merits of the case and keeping in view the totality of the facts and circumstances of the case and the fact that the petitioner has been in custody for over seven months, I am of

the view that petitioner has made out a case for grant of regular bail.

11. Accordingly, on petitioner furnishing a bail bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the Trial Court, petitioner shall be released on bail, if not required in any other case. Petitioner shall not do anything which may prejudice either the trial or the prosecution witnesses.

12. Petition is allowed in the above terms.

13. Order *Dasti* under signatures of the Court Master.

FEBRUARY 22, 2019
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SANJEEV SACHDEVA, J