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

% Judgment delivered on: 23.05.2019

+ BAIL APPLN. 865/2019

ROOP SINGH @ VICKY

..... Petitioner

versus

STATE

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Amit Nahata, Mr. Sumit Kumar Mishra and Mr. Pushkar Mehta, Advocates.

For the Respondent : Ms. Meenakshi Dahiya, APP for the State.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks regular bail in FIR No.378/2014 under Sections 392/397/342/506/34 IPC and Sections 25/27/54/59 of the Arms Act, Police Station Lahori Gate.

2. On 09.12.2014 a PCR call was received regarding robbery. When the police party reached the spot, complaint was lodged by owner of the shop that he is a trader in dry fruits and he along with his nephew were sitting in the office of the shop and his employees were working in the adjoining room.

3. At about 6 in the evening, one boy entered the office and took out a

country made pistol and threatened them. Thereafter three more boys came inside the shop and they were carrying country made pistol and knives.

4. Thereafter it is alleged that they took away approximately Rs.1,15,00,000/-. In a subsequent statement it is alleged that Rs.1.4 crores were stolen.

5. Petitioner is alleged to be one of the four boys who had entered the shop and committed the dacoity. As per the prosecution there is evidence to substantiate that apart from the four who had entered the shop there were other boys outside the shop keeping a watch.

6. Learned counsel for the petitioner submits that petitioner has been in custody since 17.12.2014 and there is no evidence to show that any offence under Section 395 punishable under Section 397 IPC was committed. He submits that FIR only records that four persons had entered the shop and for an offence under Section 395 at least 5 persons are required.

7. Learned counsel for the petitioner submits that the trial of the subject FIR is not progressing in view of the fact that there was interim orders passed in CrI.Rev.P.740/2016 staying the operation of the order framing charge against the co accused.

8. Learned APP submits that eight persons were charge sheeted and as such the basic ingredients of minimum 5 persons as required under Section 395 IPC are satisfied. Further he submits that statement of the complainant is being recorded and the complainant in his statement has identified the petitioner as one of the persons who had committed the dacoity and

brandished a knife.

9. Since this bail petition was pending, this Court had expedited the hearing in Crl.Rev.P.740/2016 and said petition has been disposed of and interim order passed therein stands vacated by order of today's date. The impediment in progress of the trial is over.

10. Approximately Rs.1.40 crores were robbed by using country made pistol as well as knives. Petitioner has been attributed an active role in the alleged offence and has been identified by the complainant and as per the case of the prosecution, apart from the four boys who had entered the shop, there were others who were on look out outside the shop and thus prima facie ingredients of Section 395 are satisfied.

11. Keeping in view the fact that testimony of the complainant is still being recorded, I am not inclined to admit petitioner to bail at this stage.

12. Petition is accordingly dismissed. However, the Trial Court is directed to expedite the trial.

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

SANJEEV SACHDEVA, J

MAY 23, 2019/rk