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

\+ BAIL APPLN. 1076/2018

ADIL KHAN ..... Petitioner

Through: Mr. Rudra Pratap, Mr. Mohd. Naved and Mr. Indralal, Advocates.

versus

STATE (NCT OF DELHI) ..... Respondent

Through: Mr. Rajat Katyal, APP for State with Insp. Deepak Kumar Malik, PS-Maurya Enclave.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 23.01.2019

The petitioner seeks bail. He has been in the Judicial Custody for the past almost four years. According to the prosecution case, in a CCTV recording, four persons are seen robbing a shopkeeper selling electronic goods. The shopkeeper was shot by one of the four persons. It is the prosecution's case that the petitioner is seen entering the shop purportedly to seek change for a Rs.500/- note. Few moments after he exists, four persons, who are allegedly his co-accused, were seen entering the shop when robbery and murder take place. According to the petitioner, he is neither seen nor recorded in the CCTV to be in the vicinity of the crime after the alleged crime and he has been falsely implicated in the case. He contends that the case of dacoity for which he is being tried, is not made out because a

minimum of five persons need to be involved in the commission of the crime, whereas the CCTV footage records involvement of only four persons.

Mr. Rajat Katyal, the learned counsel for the State submits that the fifth person could well be part of the plot to commit the crime and the petitioner is seen conducting a prior reconnaissance of the shop and his complicity is yet to be ruled out.

As per the Status Report, only three public witnesses remain to be examined; they would be required for proving official or electronic records; although the other witnesses are government officials or policemen over whom the petitioner may not have any sway, nevertheless, the learned Additional Public Prosecutor for the State refers to the judgment of the Supreme Court in ***Rajesh Ranjan Yadav alias Pappu Yadav vs. CBI through its Director*** (2007) 1 Supreme Court Cases 70 to contend that since the petitioner was seen in the shop immediately prior to the incident, the gravity of the charge and the nature of the crime would need to be considered. The learned counsel for the petitioner relies upon the judgment of the Supreme Court in ***Sanghian Pandian Rajkumar vs. Central Bureau of Investigation and another*** (2014 12 SCC 23).

The learned Additional Public Prosecutor for the State submits that since the remaining witnesses are police officials, therefore, every endeavour shall be made to have their testimony recorded within a period of ten weeks from today.

In view of the above, the learned counsel for the petitioner does not press the petition any further. The learned counsel for the parties submit that they would request the learned Trial Court to record the prosecution's evidence within ten weeks from today. Thereafter, the petitioner would be

at liberty to approach the Court.

The petition stands disposed-off in the above terms. Liberty granted.

NAJMI WAZIRI, J

JANUARY 23, 2019
acm/RW