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

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Judgment delivered on: 08.02.2019

+ BAIL APPLN. 2838/2018

SHRI SUBHASH KUMAR SHARMA Petitioner

versus

STATE Respondent

Advocates who appeared in this case:

For the Petitioner : Ms. June Chaudhary, Sr. Advocate with Mr. V. Elanchezhiyan and Mr. Manzar Anis, Advocates.

For the Respondent: Mr. Hirein Sharma, APP for the State.

Mr. Anupam S. Sharma with Mr. Pankaj Gupta, Mr. Prakash Aikan, Mr. Parikshith Sharma and Mr. Zubaik, Advocates for the complainant.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

Crl.M.A.48644/2018 (for condonation of delay in re-filing)

For the reasons stated in the application, the application is allowed.

The delay in re-filing the petition is condoned.

BAIL APPLN. 2838/2018 & Crl.M.(Bail) 2009/2018 (for interim bail for 30 days)

1. Petitioner seeks regular bail in FIR No.495/2017 under Sections

384/389/34 IPC, Police Station Punjabi Bagh.

2. The allegations in the FIR are that the complainant, who was then aged about 90 years, for the last 13 years was being threatened by some persons on the pretext of having some photographs of the complainant in an objectionable situation and based on that they were extorting money regularly from him. It is alleged that the petitioner was one of the members of the said gang who were extorting money.

3. Learned senior counsel for the petitioner submits that the petitioner has been in custody since 15.01.2018 and has been falsely implicated. It is submitted that there is no material to connect the petitioner with the subject offence except for the bald and vague allegations that the petitioner was also involved. It is submitted that there is a gross unexplained delay of 13 years in making a complaint.

4. Learned senior counsel for the petitioner points out that the statement of the complainant has already been recorded before the Trial court and he has already been cross-examined on behalf of the petitioner, however, on behalf of the other co-accused, the cross-examination continues.

5. Learned senior counsel for the petitioner points out that in the cross-examination by the petitioner, the complainant has admitted that he has never personally met the petitioner and there was never any threat or demand made by the petitioner personally. It is alleged that

his averment that he had once spoken to the petitioner over the phone. Further, it is submitted that in the cross-examination, the complainant has admitted that he had never given any money to the petitioner personally.

6. 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 complainant has admitted that he had never met the petitioner and petitioner had not personally demanded any money from him and also the fact that the petitioner has been in custody for over a year, I am of the view that petitioner has made out a case for grant of regular bail. 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. Petitioner shall not make any attempt to contact the complainant or other witnesses. Petitioner shall not shift his residence out of National Capital Territory of Delhi without prior intimation to the Trial Court.

7. Petition is allowed in the above terms.

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

SANJEEV SACHDEVA, J

FEBRUARY 08, 2019/st