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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2969/2018

IRFAN

..... Petitioner

Through: Ms. Jyoti Gupta with
Mr. Naveen Singla, Advs.

Versus

STATE

..... Respondent

Through: Mr. G.M.Farooqui, APP for State.
SI Desh Raj Singh, PS Gandhi Nagar.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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10.01.2019

The petitioner seeks bail. He has been behind bars since 31st August, 2019. He is accused of having shot at the complainant by a fire arm which resulted in minor injuries to her.

The prosecution's case is based on the disclosure statement of co-accused. However, it is the petitioner's case that he has been falsely implicated in the case, and that at the time of the alleged incidence, he was at his residence and the same can be proved upon examination of the CCTV footage of his house.

The learned counsel for the petitioner submits that even the vehicle which is allegedly used in the alleged crime can be seemed parked outside the petitioner's residence. Despite the petitioner's wife having offered CCTV footage to the Investigating Officer and the SHO concerned, the

latter have not deemed it worthwhile to take into custody the said record or to examine it.

On a query put to the learned counsel for the State as to why it has not been done, there is no worthwhile answer forthcoming. The offer of the petitioner's wife to examine the said CCTV footage can be found in para 4 of her complaint dated 6th September, 2018 addressed to various police officers including SHO and DCP of area concerned. The receipt of the complaint by the police is not in doubt. There has been no response to it. Inexplicably the CCTV footage has neither been seized nor examined. Evidence which could exculpate an accused should also have been looked into by the Investigating Officers.

It is argued on behalf of the State that the vehicle which was used for the alleged firing was of the same make as is alleged to have been parked outside the residence of the petitioner. Be that as it may, only the vehicle which was used in the crime is known, and not its registration number. It has allegedly been stolen. The issue of it being stolen and in the custody of the petitioner are issues which will be dealt with at the appropriate stage. The petitioner has set up a case that he was not present when the said vehicle was neither moved and it was otherwise in his use at the time of the alleged offence and has otherwise been implicated falsely and he ought to be granted bail. He argues that he is allegedly involved in couple of other cases cannot necessarily have a bearing in the present case. Each of those cases have been dealt with on their own merits.

In view of the above, the petitioner is granted bail, subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the Trial Court concerned, subject to the

following conditions:-

- (i) the petitioner will regularly appear on each and every date of hearing to be fixed by the Court concerned;
- (ii) the petitioner will not try to influence, contact or meet the complainant and prosecution witnesses in any manner;
- (iii) the petitioner will not leave the country without prior permission of the Court and the passport, if any, shall be deposited with the Trial Court concerned; and
- (iv) in case of change of his new address or contact number, the petitioner will promptly intimate to the SHO/IO of the case and intimate the Trial Court.

It will be open to the State to file supplementary charge sheet if so warranted upon examination of such CCTV footage as may be available.

The petition stands disposed-off in the above terms.

Nothing stated in this order shall be deemed to be an adjudication on the merits of the case.

A copy of this order be given *dasti* to the learned counsel for the parties under signature of the Court Master and a copy be communicated to the Jail Superintendent concerned through the police for compliance.

NAJMI WAZIRI, J

JANUARY 10, 2019
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