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

+ BAIL APPLN. 3018/2019

NARENDER

..... Petitioner

Through Mr.Amit Singh Tanwar, Adv.

versus

STATE

..... Respondent

Through Mr. Izhar Ahmed, APP for State.
SI Devender Anjil PS Lahori Gate.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% **11.03.2020**

Present petition is filed under section 439 Cr.P.C. on behalf of petitioner for grant of bail in pursuance to FIR No.113/2016 registered at Police Station Lahori Gate for the offence punishable under section 420/34 IPC.

Case of petitioner is that charge against him was framed under section 420/34 IPC on 08.06.2017 and matter was fixed on 05.07.2017 for prosecution evidence. The complainant/PW-1, sole public witness, namely Sangam Soni was examined and his cross examination was completed on 13.07.2018. During his cross-examination, he stated that he had recording of a telephonic conversation between him and co-accused Om Prakash. The prosecution sought leave of the learned MM to re-examine the said witness which was allowed despite the objections raised by defence counsel. Since 13.07.2018, trial has not proceeded further and more than one year has passed and re-examination of the PW-1/complainant has not yet begun.

Thus, Trial Court will take substantial time for examining prosecution witnesses.

IO had filed an application for taking voice sample of accused Om Prakash for comparison with the C.D. allegedly provided by the complainant to the I.O. However, no C.D. of such voice recording has been filed before the Ld. Trial Court or supplied to the accused.

Learned APP has opposed the present petition by submitting that petitioner has played key role in cheating and robbing the amount from complainant and role of co-accused Salim is different from petitioner, therefore, present petition deserves to be dismissed.

It is not in dispute that co-accused Saleem and Alim have been granted bail by this Court vide order dated 24.12.2018 and vide order dated 14.03.2019, respectively.

The prosecution evidence is far from completion, infact the re-examination of PW-1 has not yet started, the voice sample of co-accused Om Prakash is yet to be taken by the Forensic Laboratory for comparison and the entire process shall take substantial time.

It is not in dispute that petitioner is in custody for more than 3 years.

Moreover, on perusal of the allegations against petitioner, co-accused who has already been released on bail had similar role as of the petitioner.

However, without commenting upon the merits of the case, however, on the ground of parity with the co-accused and the fact that trial will take substantial time, I am of the view that petitioner deserves bail.

Accordingly, he shall be released on his furnishing personal bond in the sum of ₹25,000/- with one surety of the like amount to the satisfaction of the Trial Court.

Before parting with the order, it is relevant to mention that nothing contained in this order shall be construed as an expression on the merits of the case. The Trial Court shall not get influenced by the observations made by this Court, while passing the final orders in the trial.

The present bail application is allowed and disposed of.

Copy of this order be transmitted to the Jail Superintendent and the Trial Court concerned for compliance.

Order *dasti* under the signatures of Court Master.

SURESH KUMAR KAIT, J

MARCH 11, 2020/ab