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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ BAIL APPLN. 241/2020
PRAVEEN CHAUDHARY Petitioner
Through: Mr. Rajiv Mohan, Adv.

versus

STATE Respondent
Through: Mr. Kewal Singh Ahuja, APP for
State

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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18.02.2020

The applicant seeks grant of bail in terms of Section 439 of the Cr.PC, 1973 submitting to the effect that the charges against the applicant relate to the alleged commission of the offences punishable under Sections 399 r/w Section 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 submitting *inter alia* to the effect that the prosecution version does not support the allegations qua alleged commission of an offence punishable under Section 399 of the Indian Penal Code, 1860 even remotely.

The status report has been submitted on behalf of the State. It is submitted at the outset on behalf of the State rightly that the applicant has not assailed the order dated 06.12.2019 of the learned trial Court vide which charges have been directed to be framed by the learned trial Court against the applicant qua alleged commission of the offences punishable under Section 399 r/w Section 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959.

Apart from the said aspect, the averments made vide the present bail

application and the charges having already been framed vide order dated 06.12.2019 by the learned trial Court against the applicant, without any observations on the merits or demerits of the trial in progress, it is essential to observe that the applicant as per prosecution version is indicated to have been found in the premises at the Hotel Harman Palace, Paharganj, Delhi on 11.02.2019 between 6 to 7 pm along with six other alleged associates and the applicant along with other accused persons was also alleged to have been found in possession of one pistol with five live cartridges. The other accused persons except the accused named Rahul Batra were also found in possession of arms and ammunition and there are CDR details also relied upon on behalf of the State through the status report and through the charge sheet that has been filed and copy of which is on the record to indicate that there were conversations repeatedly at least 140 times between the applicant and other accused person named Vicky who was also found at the said hotel where the applicant was found with the other associates.

It has been submitted on behalf of the applicant placing reliance on the catena of verdicts i.e. in *Chaturi Yadav and Ors. Vs. State of Bihar (1979) 3 SCC 430*, *Javed @ Chikna vs. State* and *Kirti Pal vs. State of West Bengal (2015) 11 SCC 178* to contend to the effect that apart from the alleged disclosure statement made by the applicant qua his alleged complicity for commission of the offence punishable under Section 399 of the Indian Penal Code, 1860, there is nothing remotely brought forth through the prosecution version even if accepted in toto qua the alleged commission of the said offences.

On behalf of the State, it has been submitted that there are public witnesses yet to be examined. Learned counsel for the applicant submits that

the said public witnesses sought to be examined also do not bring forth the complicity of the applicant qua alleged commission of the offence punishable under Section 399 of the Indian Penal Code, 1860.

As observed hereinabove, the present proceedings are in relation to the bail application filed by the applicant and do not assail the order vide which charges have been framed against the applicant. Reliance that has been placed on behalf of the applicant on the verdicts relied upon as adverted to hereinabove are all post-trial and in appeals whereas trial in the present case is still in progress.

On behalf of the applicant it has been submitted that the applicant who is alleged to have been found with a pistol with five live cartridges can, at the most, be held liable for the commission of an offence punishable under Section 25 of the Arms Act, 1959, in relation to which it has been submitted that he has been incarcerated since 11.02.2019 with the said offence being punishable with only 3 years and he be thus released on bail.

On a consideration of the submissions made on behalf of either side, the stated factum of the CCTV footage vouching the presence of the applicant at the hotel at Paharganj with six other accused persons also visible in the CCTV footage with allegedly six persons including the petitioner having been found in possession of ammunition and arms, with also the CDR details against the applicant with other accused persons, there is no ground for grant of bail despite the factum that the applicant has been incarcerated since 11.02.2019.

The bail application is declined.

ANU MALHOTRA, J

FEBRUARY 18, 2020/vm