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

% **Judgment Reserved On: 03.02.2020**
Judgment Pronounced On: 07.02.2020

+ **BAIL APPLN. 384/2019**

JAVED

..... Petitioner

Through: Mr. M.R. Singh Sisodia and
Mr. Akrar M. Khan,
Advocates.

versus

THE STATE (GOVT. OF NCT OF DELHI

..... Respondent

Through: Mr. Tarang Srivastava,
APP for the State.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J

1. Vide this order, I shall dispose of a bail application filed under section 439 Cr.P.C. by the petitioner **Javed** in FIR No. 11/2015 u/s. 342/364A/395/412/120-B IPC & 27 Arms Act, PS Crime Branch.

2. Ld. Counsel for the petitioner has prayed for bail on the grounds that petitioner is innocent and has been falsely implicated.

Petitioner is in judicial custody since 04.02.2015. It is submitted that two material witnesses namely PW-2 Jaymin and PW-3 Rana Chintan have not supported the case of the prosecution. There are 22 witnesses cited by the prosecution to prove its case but out of these 22 witnesses, only 09 witnesses have been examined so far. It is further submitted that no other public witness is now to be examined and only police officials/formal witnesses are to be examined, thus, there is no probability of the petitioner influencing or tampering with the same. It is further submitted that out of the nine accused persons, seven have been granted regular bail by the Ld. Trial Court vide order dated 29.05.2018. It is, therefore, prayed that on the ground of parity, petitioner be also granted bail in the interest of justice.

3. Ld. APP for the state has opposed the bail application on the ground that allegations against the petitioner are serious in nature. Petitioner along with other co-accused persons has kidnapped Jaymin Thakkar and Rana Chintan and made ransom call for their release. Ld. APP for the state has, therefore prayed for dismissal of the bail application.

4. I have considered the rival submissions. The prosecution version is that on 03.02.2015, a telephone call was received at Inter State Cell, Crime Branch, Chanakyapuri, Delhi from Mrs. Ami Jaymin Thakkar in which she had alleged that her husband Jaymin Thakkar along with his employee Rana Chintan had been kidnapped. She has received a call from her husband's mobile phone and the caller was demanding Rs. 10 Lakhs as ransom in lieu of release of her husband. On 04.02.2015 an information was received that the members of kidnapper gang would come to Cloth Market, Laxmi Market Fatehpuri, Old Delhi to collect the ransom amount. On this, a trap was laid near Old Delhi Railway Station and accused Javed was apprehended but three other accused persons managed to escape from there. Accused Javed also disclosed the names and addresses of his associates. Investigation revealed that accused Javed was the kingpin of the crime and lured the Victim Jaymin Thakkar to sell the scrap material on a very competitive price and when victim reached Delhi, accused Javed, Inam and Illiyas overpowered the victims at gun point and had taken them to the house of one Irfan at Village Tirwada, Distt. Mewat, Haryana where

other accused persons namely Liyakat, Abid, Hassan, Naseem and Mujakkir also joined them. Accused persons forced Jaymin Thakkar to call his family and to ask for ransom money of Rs 1 crore which was later on settled for Rs 10 lacs. Jaymin Thakkar informed the accused persons that his father is sending ransom money to them through his source at Chandni Chowk, Delhi. On this, accused Javed along with his associates namely Iliyas, Inam and Irfan reached Chandni Chowk, Delhi to collect ransom money. From there accused Javed was apprehended and victims were rescued. Statement of victims namely Jaymin Thakkar and Rana Chintun were recorded under Section 164 CrPC on 13.02.2015. The CAF, call details and certificate U/s 65-B of Evidence Act have been obtained from the concerned Nodal officers of cellular companies.

5. I have gone through the statement of the prosecution witnesses examined so far before the Ld. Trial Court and particularly the statement of PW-2 Sh. Jaymin Thakkar, PW-3 Rana Chintan and PW-8 Ct. Rahul. Perusal of statements of PW-2 Sh. Jaymin Thakkar and PW-3 Rana Chintan reveal that they have not

fully supported the case of the prosecution. Both these witnesses have not identified the petitioner and denied the suggestion put by Ld. APP for the State that accused Javed, Inam, Illiyas and Irfan, were sitting in the offending vehicle. PW-2 Jaymin Thakkar denied that he had stated to the police that on 03.02.2015, accused Javed, Inam, Illiyas and Saheed had kidnapped him and his employee Rana Chintan with the help of a pistol and took them to Village Tirwana at the house of Irfan. However perusal of testimony of PW-8 Ct. Rahul reveals that he was also member of the team who had apprehended the petitioner when he had come at the spot along with other accused persons on TATA Safari. This witness has correctly identified petitioner Javed in the court as the person who was found in the vehicle. His testimony is quoted below for ready reference:-

08.08.2018

**PW-8 Ct. Rahul, no. 1259/Crime, ISC Crime
Branch, Chanakyapuri, New Delhi.**

On SA.

On 04.05.2015, at about 1:45 pm I was present in the office of Crime Branch. SI Sanjeev called me and SI Ravinder, SI Sunil, HC Kartar, HC Santraj, HC Dinesh, HC Yatender and Ct. Ravi and told us that he had received an

information that the abductors who had abducted Jaymin Thakkar and Rana Chintan would be coming at 4747, First Floor, Cloth Market, Laxmi Market, Fatehpuri, Delhi. We reached at Laxmi Market at about 2:30 pm. Secret informer was also with us. At about 3 pm, one TATA Safari vehicle came from the side of Old Delhi Railway Station and was going towards Sadar market. The secret informer informed us that the said vehicle belonged to abductors. The aforesaid vehicle was stopped at a distance of about 50 meter from us. On seeing us three persons came down from the aforesaid vehicle and ran away in opposite directions. We surrounded the vehicle.

There were three persons in the aforesaid vehicle. Jaymin Thakkar and Rana Chintan who were abducted were found sitting in the aforesaid vehicle. **Besides them accused Javed present in the court today (correctly identified) was also found in the vehicle. Accused Javed was apprehended.** We along with TATA Safari, both the victims and accused Javed came to the office where SI Sanjeev had recorded the statements of victims Jaymin Thakkar and Rana Chintan. Vehicle bearing no. HR27E 9242 was taken into possession vide memo Ex.PW2/D. Accused Javed was arrested vide his arrest and personal search memo Ex.PW2/A and Ex.PW2/B respectively. Disclosure statement of accused Javed was recorded.

6. Perusal of the above statement, prima facie reveals that petitioner was apprehended while he was coming with victims in TATA Safari. He has also identified the petitioner Javed. Further, SI Sanjeev Kumar who is the IO of the case is yet to be examined. Deposition of IO Insp. Sajeew Kumar is material as he was IO and also an eye-witness to the incident regarding apprehension of the petitioner. Moreover, it is settled law that at the stage of bail, the evidence need not be discussed and examined or analysed in detail and no mini trial can be conducted while deciding the bail application.

7. In view of above discussion and keeping in mind the nature and gravity of offence, no grounds for bail are made out at this stage. The bail application is, therefore, dismissed. However, in the interest of justice, Trial Court is directed to conclude the trial of the case expeditiously.

8. Bail application stands disposed of accordingly.

BRIJESH SETHI, J

FEBRUARY 7, 2020

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