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

+ **BAIL APPL. 327/2020**

BIJENDER TIWARI @ CHAKU @ CHHOTU ...Petitioner/Applicant
Through: Mr. S.K. Gandhi, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI) Respondent
Through: Mr. Tarang Srivastava, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% 27.08.2020

The applicant, who is an accused in case FIR No.612/2019 dated 18.08.2019 registered under sections 392/397/411/365/34 IPC at PS: SP Badli, seeks regular bail.

2. Notice in this application was issued on 04.02.2020.

3. Thereafter by way of Crl. M.A. No.6145/2020, the applicant sought interim bail in view of the prevailing coronavirus pandemic, which was granted *vidé* order dated 15.05.2020 for a period of 45 days; and although subsequently by orders dated 13.07.2020, 24.07.2020 and 24.08.2020 made by the Full Bench of this court in W.P.(C)

No.3037/2020 titled *Court on its own Motion vs. State & Ors.*, interim bail orders have been extended from time-to-time to avoid spread of the pandemic by prisoners returning to jail, the applicant duly surrendered to custody after his interim bail period expired. There is no allegation that while on interim bail, the application misused the liberty or violated any conditions imposed.

4. Status reports dated 23.02.2020, 13.05.2020, 16.07.2020 and 24.08.2020 have been filed in the matter.

5. Nominal rolls dated 18.07.2020 and 30.07.2020 have been received from the Jail Superintendent; and nominal roll dated 26.08.2020 has been forwarded *via* e-mail by Mr. Tarang Srivastava, learned APP. Let the same be brought on record.

6. Since there was some discrepancy as between status report dated 16.07.2020 and nominal roll dated 30.07.2020, the SCRB report in respect of the applicant was sought so as to resolve the apparent contradiction. In response, the latest status report dated 24.08.2020 has been filed in the matter along with the SCRB record.

7. Mr. Tarang Srivastava, learned APP for the State has explained that the applicant was implicated in a total of 03 cases being FIR No.07/2014, FIR No.421/2014 and FIR No.612/2019. Mr. Srivastava submits that in FIR No.421/2014 under sections 302/307 IPC, the applicant stands acquitted; and no appeal has been filed from such acquittal. In FIR No.07/2014 under sections 452/308/34 IPC, Criminal Appeal No.734/2015 is pending on the Regular Board of this court, in

which the applicant is on suspension of sentence. FIR No.61/2019 is the present case, in which regular bail is sought.

8. Mr. S.K. Gandhi, learned counsel appearing for the applicant contends that the applicant has been in judicial custody since 04.09.2019, except for the 45 days of interim bail which he availed and after which he duly surrendered. He contends that it is noteworthy that the applicant neither claimed nor availed the benefit of extension of interim bail granted by various orders of the Full Bench as referred to above. He further points-out that the applicant's jail conduct is 'satisfactory' and no prison punishment has been awarded to him ; and also that co-accused Ravi Kumar and Saleem are already out on regular bail, as reflected in the nominal roll. He also submits that a perusal of the status report shows that no recovery was made from the applicant.

9. Mr. Gandhi further points-out that charge-sheet in the matter has been filed on 29.11.2019 ; but due to the restricted functioning of courts due to the prevailing coronavirus pandemic, it is unlikely that trial will be completed anytime soon.

10. Mr. Srivastava, on the other hand, opposes grant of bail arguing that there is at least one other case pending against the applicant, from which an appeal has been admitted by this court for hearing. Mr. Srivastava stresses that the applicant is alleged to have committed the offence in the present FIR while he was on bail in an earlier case, which reflects his criminal tendencies and conduct. Mr. Srivastava further submits that the robbed goods, being almonds, were recovered from a co-

accused on the disclosure statement of the applicant and the applicant was duly identified in a TIP.

11. Upon a conspectus of the submissions and the material on record, without delving into the merits of the evidence, what weighs with this court is *firstly*, that of the three cases in which the applicant was implicated, he stands acquitted in one; his appeal has been admitted to hearing in the second, in which he has been granted suspension of sentence; and in the present case, he was granted interim bail, whereafter he duly surrendered without any allegation of violation of any condition of bail. *Secondly*, charge-sheet in the matter has been filed on 29.11.2019 and trial is unlikely to be completed anytime soon in view of restricted functioning of courts; and that therefore no purpose in aid of investigation and/or trial will be served by detaining the applicant in custody any longer.

12. In this view of the matter, this court is persuaded to admit the applicant to *regular bail* subject to following terms and conditions:

- (a) The applicant shall furnish a personal bond in the sum of Rs.50,000/- with 01 surety in the like amount from a family member, to the satisfaction of the trial court ;
- (b) The applicant shall furnish to the Investigating Officer/SHO a cell phone number on which the applicant may be contacted at any time and shall ensure that the number is kept active and switched-on at all times ;

(c) The applicant shall not contact, nor visit, nor offer any inducement, threat or promise to the first informant/complainant or to any of the prosecution witnesses. The applicant shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending matter ;

13. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.

14. The bail application stands disposed of.

15. Other pending applications, if any, also stand disposed of.

16. A copy of this order be sent to the concerned Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J

AUGUST 27, 2020

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