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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 916/2020

SUNIL GAUR

..... Petitioner

Through: Mr. Deepak Mishra, Advocate.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Mukesh Kumar, APP for State.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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28.05.2020

1. The hearing was conducted through video conferencing.
2. The petitioner seeks bail in case FIR No. 436/2018 dated 16.10.2018 under sections 392, 397 and 34 IPC, registered at Police Station Karol Bagh, Delhi. The petitioner has been made an accuse in the aforesaid FIR on the basis of an alleged disclosure statement made in the case FIR No. 541/2018 registered at Police Station Vasant Kunj (North), Delhi. Indeed, he is the only accused who has been so granted bail in the said case.
3. In the present case, the petitioner was never taken on police remand for recovery of any of the so-called stolen/robbed goods or for recovery of any other material which would incriminate him or otherwise link him with the alleged crime. The genesis of this FIR is as noted hereinabove.
4. It is the petitioner's case that even in the chargesheet, no incriminating evidence has been put forth to link him with the

crime. On a specific query put to the learned Additional Public Prosecutor for the State that whether there is any incriminating evidence apropos this FIR, he submits that the pistol which was allegedly recovered in the FIR No. 541/2018 is the one which is being linked in the present case. However, in the said FIR, he is already out on bail.

5. The learned counsel for the parties draw the Court's attention to the recommendation made in the Minutes of the Meeting dated 18.05.2020 of the High-Powered Committee apropos under-trial prisoners which, *inter alia*, has resolved as under:

“ ...

The Members of the Committee discussed the report submitted by DG (Prisons) vide his letter dated 16.05.2020 and resolved that prisoners falling in following criteria may now be considered for grant of interim bail for 45 days in view of the circumstances in which we are in, preferably on 'Personal Bond' :

(i) Under trial prisoners (UTPs) facing trial for a case under Section 302 IPC and are in jail for more than two years with no involvement in any other case;

(ii) Under trial prisoners (UTPs) facing trial for offence under Section 304 IPC and are in jail for more than one year with no involvement in any other case

(iii) Under trial prisoners (UTPs) facing trial in a case under Section 307 or 308 IPC and are in jail for more than six months with no involvement in any other case;

(iv) Under trial prisoners (UTPs) facing

trial/remand prisoners in Theft cases and are in jail for more than 15 days;

(v) Male Under trial prisoners (above 65 years of age) facing trial in a case except the ones excluded hereunder and are in jail for more than six months with no involvement in any other case;

(vi) Female Under trial prisoners (above 60 years of age) facing trial in a case except the ones excluded hereunder and are in jail for more than six months with no involvement in any other case;
.....”

6. The petitioner has been in judicial custody for more than 17 months. The present case is for offences of robbery and dacoity, whereas the Court would note that even in cases under sections 302 and 304 IPC, there is a recommendation for relaxation for grant of interim bail for 45 days.
7. Furthermore, the petitioner contends that his mother is not keeping well and needs immediate assistance, as the considerate neighbours who were thus far assisting her, are constrained from doing so, perhaps for their own safety in view of the nationwide pandemic lockdown. In the circumstances, he claims to be the only person who could take care of her.
8. For the reasons mentioned hereinabove, the Court grants interim bail to the petitioner for a period of 4 months, on his furnishing a personal bond in the sum of Rs.20,000/- to the satisfaction of the Jail Superintendent concerned. The petitioner shall also furnish a surety in the sum of the like amount to the satisfaction of the

learned Trial Court/learned Sessions Court on resumption of normal functioning of the Courts. The Investigating Officer/SHO concerned shall duly intimate the petitioner about such requirement when the regular functioning of Courts resume. The interim bail is granted on the following conditions:

- (i) The petitioner shall keep the SHO/IO concerned informed of his whereabouts every Friday through SMS or telephone call or by 'dropping-a-pin' on location app (eg. Google Maps). The IO/SHO's telephone number shall be furnished to him directly as well as to his counsel.
- (ii) The petitioner shall ensure that the telephone number provided by him to the police is reachable at all times.
- (iii) The petitioner shall not do anything which may cause prejudice to the case of the prosecution against him.

9. The application is disposed-off in terms of the above.

10. Nothing stated in this order shall be deemed to be an adjudication on the merits of the case. The Registry is directed to email a copy of this order to the Jail Superintendent concerned for due compliance.

11. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

NAJMI WAZIRI, J

MAY 28, 2020_{/AB}