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

+ **BAIL APPLN. 961/2020**

MASHROOR

..... Petitioner

Through Mr Ravindra Narayan, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Through Mr APP for state.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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05.06.2020

[Hearing held through videoconferencing]

1. The petitioner has filed the present petition, *inter alia*, seeking bail in connection with FIR No. 214/2013 under Section 394/307/397/411/34 IPC and Section 25/27 of the Arms Act, 1959, registered with P.S. Mansarovar Park.
2. The said FIR was registered on the statement made by one Mr Jitender Singh who was a driver of van used for carrying cash. He alleged that on 02.08.2013, he along with other staff reached the ATM of United Bank of India for replenishing cash. On his arrival at the spot, they were stopped by four boys who came in a Wagon-R. One of the boys put a country made pistol on his neck and one of the other boys placed a country made pistol on the neck of the security guard at the ATM. One of the other boys, entered the ATM and robbed the suitcase containing ₹35,66,000/-. The

said boys also robbed the double barrel gun of the security guard after injuring him. The injuries suffered by the guard are grievous and, therefore, the offence under Section 395/307 IPC was also added.

3. During the investigations, two of the alleged offenders were apprehended and they disclosed that the petitioner was also one of the persons involved in the robbery. It is alleged that at the instance of two of the co-accused, sums of ₹1,38,000/- and ₹10,00,000/- were recovered from their respective houses. It is alleged that at the instance of the petitioner the ATM Cassette (the tray that is used store/feed cash at the ATM) was recovered. But no amount was recovered from the petitioner herein.

4. The petitioner was arrested and has been in custody for almost seven years.

5. The petitioner had filed a bail application (BAIL APPLN. 2023/2019 captioned 'Mashroor v State'), which was considered by this Court on 13.09.2019. This Court had observed that considering the time spent by the petitioner in custody, the court was inclined to consider the petitioner's application favourably but the Court declined the said application as it was pointed out that the petitioner was involved in ten other FIRs and offences alleged against him were grave and serious. However, the court issued directions to the Trial Court for completing the trial expeditiously. The Trial Court was further directed to ensure that the prosecution witnesses are examined within a period of two months from that date and the trial be completed as expeditiously as possible and preferably within a period of six months from that date.

6. The aforesaid period has since expired and it is evident that the trial cannot be completed within a short span of time as the accused are yet to

lead their defence evidence.

7. It is also pointed out by the learned counsel for the petitioner that the contention that the petitioner was involved in ten FIRs was misleading because the petitioner has been acquitted/discharged in seven out of ten cases. It is stated that the petitioner has also served his sentence in the remaining three cases and there is no other case apart from the present one (arising from FIR No. 214/2013), is pending against the petitioner.

8. Mr Mukesh Kumar learned APP appearing for the State has stoutly opposed the present petition. He states that the petitioner is a habitual offender and there is all likelihood that if he is released on bail he would commit further offences. He further states that the trial is at its last stages and there is possibility that the petitioner would try to flee and jump bail. He states that the petitioner's involvement in the crime has been established by the witnesses and the factum that the ATM Cassette was recovered at his instance also cannot be disputed.

9. It is not necessary to examine the evidence in any detail. Considering that (a) it is not disputed that the petitioner has served his sentence in three cases in which he was convicted; (b) that he has been acquitted/discharged in other cases; (c) that the petitioner has already undergone almost seven years in judicial custody; and (d) his conduct in jail is not unsatisfactory, this Court considers it apposite to allow the present petition.

10. The petitioner shall be released on bail for a period of three months from the date of his release on his furnishing a personal bond in the sum of ₹25,000/- to the satisfaction of the Jail Superintendent. This is also subject to the following further conditions:

- (a) the petitioner shall provide a contact number and

ensure that he is reachable at all times; and

(b) he shall mark his presence before the concerned police station on every second and fourth Monday of the calendar month;

11. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

JUNE 05, 2020

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