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

Date of decision: 07.07.2020

+ BAIL APPLN. 1222/2020

DEEPAK DABAS

..... Petitioner

Through Mr.Kirti Uppal, Sr. Adv. with
Mr.Shivek Trehan, Mr.Pranay Mohan
Govil, Ms.Geeta Sharma & Mr.Rahul
Chaudhary, Advs.

versus

STATE (GOVT OF NCT) OF DELHI

..... Respondent

Through Mr.Amit Chadha, APP for State with
Ms.Jyoti Babbar, Adv. for Mr.Rajesh
Mahajan, ASC.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (ORAL)

The hearing has been conducted through video conferencing.

1. Present petition has been filed under section 439 Cr.P.C. seeking regular bail in pursuance to FIR No.09/2020 registered at Police Station Kanjhawala for the offences punishable under sections 302/34 IPC & 25/27/54/59 Arms Act.
2. Mr.Kirti Uppal, learned senior counsel appearing on behalf of the petitioner submits that petitioner's arrest in FIR No.09/2020 on 13.05.2020 comes close on the heels of an order dated 12.05.2020 passed by Shri

Devender Nain, Ld. ASJ, Rohini, whereby petitioner/accused had been granted interim bail in 9 cases where he was in judicial custody upto that point in time. Prior to the said order dated 12.05.2020, there was no whisper of the petitioner's alleged involvement in FIR No.09/2020.

3. Learned senior counsel further submits that the sequence of events leading up to the petitioner's arrest in FIR mentioned above leaves no manner of doubt that the arrest itself was arbitrary, illegal and carried out with an intent to defeat and circumvent the earlier order dated 12.05.2020. Prior to his arrest in FIR No.09/2020, the petitioner was already in judicial custody in the following 9 cases:

S. No.	FIR NO.	Offences	Regd. On	Police Station
1.	110/2012	392/365/34 IPC	10.06.2012	South Rohini
2.	791/2015	307/308/457/506/323/34 IPC 25/59/27/54 Arms Act.	21.11.2015	Kanjhawala
3.	102/2016	302/34 IPC 25/27/54/59 Arms Act.	29.01.2016	Begumpur
4.	217/2016	186/353/307/34 IPC 25/27/54/59 Arms Act.	29.02.2016	Begumpur
5.	463/2016	307/392/397/34 IPC 25/27 Arms Act.	20.06.2016	Vijay Vihar

6.	69/2019	302 IPC 25/27 Arms Act.	01.03.2019	Begumpur
7.	415/2019	387/506 IPC	15.10.2019	Kanjhawala
8.	76/2020	387/506 IPC	31.01.2020	Aman Vihar
9.	67/2020	302 IPC 25/27/54/59 Arms Act.	20.02.2020	Kanjhawala

4. Learned Senior counsel further submits that even before his arrest in the abovesaid cases, the petitioner had been wanting to get married to his fiancée- one Ms. Priyanka Siwas, who is a practicing advocate enrolled with the Bar Council of Delhi since 2018. As such, the petitioner moved applications under Section 439 Cr.P.C. in the abovesaid 9 cases seeking interim bail on the ground that he was desirous of getting married. All 9 applications were heard together before the same court and as and when the said 9 applications came up for hearing, the investigating officers in each of the said cases filed their respective replies/status reports between 11.05.2020 and 12.05.2020. Status reports would reveal that there is no mention of the petitioner's alleged involvement in any case other than the 9 cases in which the bail applications were being considered at that point in time.

5. In addition to above, on 13.05.2020, even before the petitioner could be released from judicial custody in light of the order dated 12.05.2020, the petitioner was abruptly placed under formal arrest in a previously

unbeknownst case - FIR No.09/2020 dated 08.01.2020 registered at PS Kanjhawala. He submits that out of the 9 applications under consideration in order dated 12.05.2020, 3 cases - i.e. FIR No.791/2015, FIR No.415/2019 and FIR No.67/2020 are registered at PS Kanjhawala. Despite these 3 cases being of PS Kanjhawala, none of the replies and/or status reports filed by the police officials of PS Kanjhawala on 12.05.2020 mentioned that the petitioner is allegedly involved in commission of offences being investigated in another case - i.e. FIR No.09/2020 and that his custody is required in such case.

6. He further submits that case of investigating officer is that role of petitioner in FIR No.09/2020 came to light through a confessional statement given by the petitioner in the course of his interrogation in another case - i.e. FIR No.76/2020 registered at PS Aman Vihar pursuant to his arrest on 03.03.2020. Pertinently, FIR No. 76/2020 registered at PS Aman Vihar was one of the cases in which interim bail was granted to the petitioner vide earlier order dated 12.05.2020.

7. If the case set up by the police were to be believed, which is based on nothing more than an inadmissible confessional statement, it would essentially mean that though the police authorities had knowledge of the

involvement of the petitioner in FIR No.09/2020 since 03.03.2020 at the very least, they neither arrested him - despite him being available in judicial custody, nor made any efforts to interrogate him in FIR No.09/2020. The interrogation referred to in Reply dated 15.05.2020 is the interrogation conducted in FIR No.76/20 registered at PS Aman Vihar and not in FIR No.09/20 itself. Further, even on 12.05.2020, when the Court of the Ld. ASJ was considering 9 interim bail applications preferred by the petitioner herein - one of which was filed in FIR No.76/20 registered at PS Aman Vihar and three others were filed in FIR No. 67/2020, 415/2019 and 791/2015 registered at PS Kanjhawala, not once did the authorities deem it appropriate to point out that the petitioner was wanted and/or being investigated in the present FIR No.09/20.

8. Learned Senior counsel further submits that it is not understood, nor attempted to be explained by the police as to why the petitioner was not placed under arrest between 03.03.2020 and 12.05.2020 despite being available in judicial custody in 9 pending cases. The version of the police leading up to the arrest of the petitioner on 13.05.2020 as narrated in the Reply dated 15.05.2020, is seemingly coincidental with his scheduled release from custody pursuant to the order dated 12.05.2020 is

unconvincing, far-fetched and implausible. These facts clearly demonstrate the maliciousness with which the police has acted in the present case and leaves no manner of doubt that the petitioner's arrest in FIR No.09/2020 on 13.05.2020 is the outcome of an afterthought with the intent to defeat and circumvent the effect of the order dated 12.05.2020.

9. While concluding his arguments, Mr.Uppal submits that after having considered the Replies/Status Reports filed in each of the 9 cases and after having heard detailed arguments, the Ld. ASJ granted interim bail vide order dated 12.05.2020 and directed that the petitioner be released for a period of 45 days for the purpose of his marriage.

10. Since the interim bail granted vide order dated 12.05.2020 has been set aside by this Court today itself in CrI.M.C.1499/2020 by a reasoned order, therefore, arguments advanced by the learned senior counsel for the petitioner raising fingers on the investigating team is of no help so far as the present case is concerned. Moreover, omission on the part of IO mentioning the complete details of cases, does not spoil the prosecution case and is no ground to grant bail.

11. It is not in dispute that petitioner is involved in as many as 23 cases involving heinous offences. Thus, he is a habitual offender. Moreover,

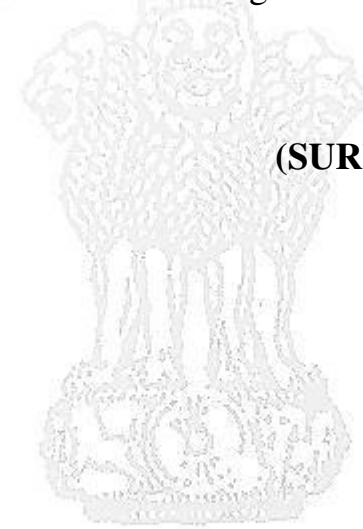
pursuant to order dated 19.05.2020 passed in Bail Appln. No.939/2020 by this Court, the petitioner is already married, therefore, keeping in view the serious allegations against the petitioner, releasing him on bail/interim bail would be hazardous to the society.

12. Accordingly, the petition is dismissed.

13. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through email.

(SURESH KUMAR KAIT)
JUDGE

JULY 07, 2020/ab



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