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

% Judgment delivered on: 11.09.2020
+ BAIL APPLN.1275/2020

UMESH KUMAR Petitioner

versus

STATERespondent

Advocates who appeared in this case:

For the Petitioner: Mr. A.K.Bajpai and Mr. Udit Grover, Advocates.
For the Respondent: Ms. Kusum Dhalla, APP.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. Status report has been filed and the address of the petitioner has been confirmed and found to be genuine.
3. Petitioner seeks regular bail in FIR No.293/2018 Police Station Patel Nagar under Sections 394/398/511/34 IPC.
4. FIR was registered on the statement given by the driver of a private cash van, who contended that at about 11.30-11.45 am he had taken the cash van from the office at Naraina Vihar along with other employees for loading cash in the ATMs. Near Patel Nagar at about

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to HMJ Sanjeev Sachdeva.

1.15 PM the custodian, auditor and the gunman took the cash to load in an ATM. While he was sitting in the vehicle with the gunman and the windows of the vehicle were open and a cash box was also in the vehicle, two boys came from the front side of the vehicle holding something which resembled a weapon but their faces were muffled with a handkerchief and one of the boys pointed a weapon like object on him and the other pointed a weapon on the gunman. The gunman left his gun in the vehicle and ran away. A third boy came from the side and hit him on his head with some pointed object. He got out of the vehicle and starting shouting and when he started shouting, public accumulated and the boys ran away from there.

5. As per the case of the prosecution, the dump data was obtained from the towers of various cell phones and the dump data was analysed and five suspected mobile numbers having connectivity with each other were identified. The location of all the mobile phones was moving together and all of them were present at the scene of crime at the time of the incident.

6. Based on the IMEI numbers a co accused was suspected since he was previously involved in cases of robbery. He was arrested and he is alleged to have disclosed the name of the petitioner along with other co accused. Based on the above, petitioner was arrested in the present case.

7. Learned counsel for the petitioner submits that the entire case against the petitioner is based on circumstantial evidence and there is

no direct evidence linking the petitioner with the subject offence. He further submits that though petitioner is alleged to have committed an offence under Section 398 IPC, however, there is no material/evidence to establish that any dangerous weapon was used in the offence.

8. Learned counsel further submits that the witnesses have merely stated that a weapon like object was used. No description of any weapon has been given by any of the witnesses, leave alone describing a dangerous weapon.

9. Without commenting on the merits of the case and keeping in view the fact that petitioner has already undergone nearly 1 year and 10 months of incarceration, on petitioner furnishing a bail bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the Trial Court, petitioner shall be released on bail, if not required in any other case. Petitioner shall not do anything which may prejudice the trial or the prosecution witnesses.

10. Petition is allowed in the above terms.

11. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

SANJEEV SACHDEVA, J.

SEPTEMBER 11, 2020

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