

via Video-conferencing

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPL. 1344/2020**

BANTI

.....Petitioner/Applicant

Through : Mr. Arpit Bhalla, Advocate.

versus

THE STATE OF DELHI

..... Respondent

Through : Mr. Tarang Srivastava, APP for
State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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20.08.2020

The applicant, who is an undertrial in case arising from FIR No. 488/2018 registered under sections 392/394/397/452/411/120B/34 IPC read with sections 25/27 of the Arms Act at PS : Nangloi, Delhi, seeks regular bail.

2. Notice in this application was issued on 19.06.2020.
3. Status report dated 08.07.2020 has been filed.
4. Nominal roll dated 05.07.2020 has been received from the Jail Superintendent.
5. SCRB record dated 09.07.2020 in respect of the applicant has also been placed on record.
6. In compliance with the last order, bail order dated 08.07.2019 relating to co-accused Sonu Kumar has been filed, whereby the learned Sessions Court has granted regular bail to the co-accused.

7. Mr. Arpit Bhalla, learned counsel appearing for the applicant submits that the essence of the allegation is that on 10.12.2018, the accused persons looted the Domino's Pizza Restaurant at Rattan Park, Nangloi, Main Rohtak Road, Delhi which led to the filing of the FIR alleging offences under sections 392/394/397/452/411/120B/34 IPC and sections 25/27/29 Arms Act.
8. Mr. Bhalla points-out that since the offence under section 34 IPC has also been alleged, the role of all co-accused persons must, at least at this stage, be taken to be co-extensive. Counsel submits that as is evident from a perusal of charge-sheet dated 07.03.2019 filed in the matter, only co-accused Sonu Kumar was an employee of the Domino's Pizza outlet; and that the applicant's name arose only from the disclosure statement made by the said Sonu Kumar; and that the allegation that the applicant was the person who hatched the conspiracy is false.
9. Other things apart, Mr. Bhalla points-out that in the backdrop of the allegation under section 34 IPC, co-accused Sonu Kumar has been granted bail as far back as on 08.07.2019, while the applicant is still in judicial custody. Counsel also contends, that as disclosed in the SCRB record and the nominal roll, the applicant has no other or previous involvement in any criminal offence. However, the applicant's bail application was dismissed by the learned Sessions Court *vidé* order dated 25.07.2019.
10. Relying upon status report dated 08.07.2020, Mr. Tarang Srivastava, learned APP appearing for the State opposes grant of bail *inter alia* contending, that as is evident from a perusal of the charge-

sheet, the applicant was the person who hatched the conspiracy; that recovery of cash of Rs.36,000/- as also of a mobile phone, a motor cycle, clothes and shoes has been made from the applicant's house; and further that, the applicant has also been identified in TIP proceedings. Accordingly, it is contended that the applicant cannot claim parity with the bail granted to co-accused Sonu Kumar by the learned Sessions Court.

11. Be that as it may, what weights with the court is *firstly*, that offences under sections 120B and 34 IPC have also been alleged in relation to the crime; *secondly*, that investigation is long-complete and charge-sheet dated 07.03.2019 has been filed way back in March 2019; *thirdly*, that it is not the case that any further investigation is going-on; *fourthly*, that recoveries that are alleged to have been made from the applicant are required to be proved at the trial; and accordingly, no purpose in aid of investigation or prosecution will be served by detaining the applicant in judicial custody any longer.

12. Accordingly, this court is persuaded to admit the applicant to *regular bail*, upon the following conditions :

- (a) The applicant shall furnish a personal bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) with 01 surety in the like amount from a family member, to the satisfaction of the learned Trial Court;
- (b) The applicant shall furnish to the Investigating Officer/ concerned 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 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 matter.

13. Nothing in this order shall be construed as an expression on the merits of the pending matter.
14. The bail application is disposed of in the above terms.
15. Other pending applications, if any, also stand disposed of.
16. A copy of the order be sent to the Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

AUGUST 20, 2020

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