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

+ **BAIL APPLN. 1807/2020**

PAWAN KUMAR alias CHINTUPetitioner

Through Mr. Ajit Nair, Adv.

versus

STATE OF NCT OF DELHIRespondent

Through Mr. Hirein Sharma, APP for the state.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **26.08.2020**

[Court hearing convened *via* video-conferencing on account of COVID-19]

1. Mr. Ajit Nair, counsel for the petitioner, says that the petitioner should be released on interim bail.
2. The record shows that, initially, FIR No. 288/2019 dated 09.11.2019 was registered against the petitioner under Sections 308/34 IPC and, thereafter, the prosecution had added Sections 394/397/411/120-B of the IPC *qua* the petitioner and the other three co-accused.
3. The other co-accused in the matter are: Amarjeet Singh alias Sunny, Kuber Varma alias Ritik Varma, and Mohit Singh alias Ved.
4. According to Mr. Nair, Kuber Varma and Mohit Singh were released on interim bail. In this behalf, my attention has been drawn to the orders dated 12.06.2020 and 22.06.2020 passed by the concerned Additional Sessions Judge.
- 4.1 A perusal of the aforementioned orders shows that they were passed having regard to the HPC guidelines.

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5. Briefly, the allegation against the petitioner and the other co-accused is that they waylaid the complainant and robbed him of Rs. 2, 90,000/-. This incident, according to the prosecution, occurred on 08.11.2019, at about 11:00 P.M.

6. The case of the prosecution is that the petitioner, along with the other co-accused, hatched a conspiracy to waylay the victim i.e. Mr. Surender Aggarwal and rob him of his money. The prosecution also claims that in the process of robbing, Mr. Surender Aggarwal was injured severely and had to be admitted to the hospital.

7. I am informed that the matter is at the stage of trial.

8. Mr. Hirein Sharma, the learned APP, says that the complainant's evidence has not been recorded as yet. Furthermore, according to Mr. Sharma, HPC guidelines are not applicable in the instant case as the petitioner is accused of having committed offences not only under Sections 308/34 of the IPC but also under Sections 394/397/411/120-B.

8.1 Mr. Sharma says that given this fact and the fact that the main witness/complainant is yet to be examined, the petitioner should not be enlarged on bail.

8.2 Furthermore, Mr. Sharma says that from each of the co-accused, certain amount of money was recovered. Insofar as the petitioner is concerned, Mr. Sharma says that Rs.10, 000/- were recovered.

9. Mr. Nair, on the other hand, says that this Court has the discretion to release the petitioner on bail despite an allegation being made that he committed offences which are not covered by the HPC guidelines.

9.1 In any event, according to Mr. Nair, the petitioner should be released on the ground on parity and having regard to his age, which is, 21 years and the fact that he has no past criminal record.

10. I have heard Mr. Nair and Mr. Sharma and also considered the matter in some detail.

11. I may also indicate that that one of the co-accused i.e. Mr. Amarjeet Singh alias Sunny had approached this Court seeking interim bail. This bail application was numbered as Bail Application No. 1514/2020. The same was dismissed as withdrawn on 18.08.2020.

11.1 Besides this, the argument of parity does not appeal to me for the reason that the input I have received from the learned APP, which, in turn, is based upon his interaction with the concerned Jail Superintendent, is that there are, at present, no Coronavirus cases in Tihar Jail i.e. the jail where the petitioner is lodged presently.

11.2 More importantly, the matter is, at this juncture, crucially poised before the concerned trial court.

12. For the foregoing reasons, at the moment, on balance, I am not inclined to entertain the captioned bail application.

13. The bail application is, accordingly, dismissed.

RAJIV SHAKDHER, J

AUGUST 26, 2020

Pmc/KK

Click here to check corrigendum, if any

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