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

+ **BAIL APPLN. 1953/2020**

SAHIL

..... Applicant

Through: Mr. Shailendra Pratap Shukla, Adv.

versus

GOV. OF NCT

..... Respondent

Through: Mr. Kamal Kr. Ghei, APP for State
with SI Anshu Kadian.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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30.07.2020

The applicant has sought the grant of regular bail in relation to the FIR No.76/2019, PS Tilak Nagar, under Sections 394/397/34 of the Indian Penal Code, 1860.

Notice thereof was issued to the State vide order dated 29.07.2020. The status report has been submitted by the State.

Submissions have been made on behalf of the applicant that he was falsely implicated in the instant case and that the applicant was not present at the spot and that the testimony of the complainant and the averments in the FIR are not in consonance with each other whereas initially it was submitted by the complainant that three assaulters were on a bike and subsequently, it was submitted by the complainant that three assaulters were on a scooty. *Inter alia* it has been submitted on behalf of the applicant that two other accused in the instant case named Sahil @ Lila & Avinash have already been granted regular bail and that on parity of reasoning, the applicant be

released on bail. It has further been submitted on behalf of the applicant that the CCTV footage of the area also does not show the presence of the applicant at the spot and that there is nothing whatsoever to incriminate the applicant in the instant case.

On behalf of the State, the prayer is opposed submitting to the effect that the cross-examination of the complainant is still pending before the learned trial Court and that the proceedings may be deferred to be taken up thereafter. Furthermore, it has been submitted through the status report that has been submitted by the State that the applicant is involved in a large number of cases, the details of which are mentioned in the status report i.e.

- FIR No.0168/2017, PS Tilak Nagar, under Section 392/411/34 of the Indian Penal Code, 1860;
- FIR No.017617/2018, PS e-Police Station, under Section 379/411 of the Indian Penal Code, 1860;
- FIR No.041735/2018, PS e-Police Station, under Section 379/411 of the Indian Penal Code, 1860;
- FIR No.0076 /2019, PS Tilak Nagar, under Section 394/397/34 of the Indian Penal Code, 1860;
- FIR No.010927/2019, PS e-Police Station, under Section 379/411/34 of the Indian Penal Code, 1860;
- FIR No.WD-TN-000063/2019, PS e-Police Station, under Section 379/411 of the Indian Penal Code, 1860;
- FIR No.0138/2019, PS Vikas Puri, under Section 365/379/34/411 of the Indian Penal Code, 1860;
- FIR No.WD-TN-000095/2019, PS e-Police Station, under

Section 379/411 of the Indian Penal Code, 1860;

- FIR No.WD-TN-000201/2019, PS e-Police Station, under Section 379/411 of the Indian Penal Code, 1860;
- FIR No.0143/2019, PS Vikas Puri, under Section 356/379/411/34 of the Indian Penal Code, 1860.

It has been submitted on behalf of the State that the testimony of the complainant to the extent that has been recorded specifically mentions the name of the applicant as being the person who had assaulted him.

On behalf of the applicant learned counsel for the applicant has stated that the applicant was not produced for test identification parade and that the complainant has never identified the applicant in the Court and that the photographs were shown to the complainant by the Investigating Officer as was stated by the complainant in his testimony.

Without any observations on the merits or demerits of the trial that is in progress, it is essential to observe that the complainant in his deposition dated 26.09.2019 has denied that the Investigating Officer has shown the photographs of the accused persons to him prior to their arrest and rather stated that the Investigating Officer had shown the photographs of different persons, none amongst them comprised the accused persons and stated further that he has himself identified the accused persons in the Court. The complainant further stated through his statement which is still being recorded that he has identified the applicant as being the person who had inflicted knife blows at the time of commission of robbery when the accused persons had tried to flee away from the spot.

In the circumstances, taking the deposition of the complainant to the extent that has been recorded and the stated involvement of the applicant

also in relation to FIRs i.e. FIR No.0168/2017, PS Tilak Nagar, under Section 392/411/34 of the Indian Penal Code, 1860; FIR No.017617/2018, PS e-Police Station, under Section 379/411 of the Indian Penal Code, 1860; FIR No.041735/2018, PS e-Police Station, under Section 379/411 of the Indian Penal Code, 1860; FIR No.0076 /2019, PS Tilak Nagar, under Section 394/397/34 of the Indian Penal Code, 1860; FIR No.010927/2019, PS e-Police Station, under Section 379/411/34 of the Indian Penal Code, 1860; FIR No.WD-TN-000063/2019, PS e-Police Station, under Section 379/411 of the Indian Penal Code, 1860; FIR No.0138/2019, PS Vikas Puri, under Section 365/379/34/411 of the Indian Penal Code, 1860; FIR No.WD-TN-000095/2019, PS e-Police Station, under Section 379/411 of the Indian Penal Code, 1860; FIR No.WD-TN-000201/2019, PS e-Police Station, under Section 379/411 of the Indian Penal Code, 1860 and FIR No.0143 /2019, PS Vikas Puri, under Section 356/379/411/34 of the Indian Penal Code, 1860, it is apparent that there is no ground whatsoever for grant of bail presently to the applicant.

The application is declined.

ANU MALHOTRA, J

JULY 30, 2020

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