

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

Date of decision: 28th APRIL, 2021

IN THE MATTER OF:

+ **BAIL APPLN. 422/2021**

KAKE @ SANDEEP YADAV

..... Petitioner

Through: Mr. Sudeesh Kumar, Mr. Jitendra
Thakur and Mr. Shannu Baghel,
Advocates

versus

THE STATE

..... Respondent

Through: Ms. Kusum Dhalla, APP for the State

+ **BAIL APPLN. 448/2021**

SUNIL SOOD

..... Petitioner

Through: Ms. Sonika Tyagi, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Kusum Dhalla, APP for the State

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.

1. Bail application No. 422/2021 filed under Section 439 CrPC is for grant of regular bail in FIR No. 547/2020 dated 18.07.2020, registered at Police Station Model Town, Delhi, under Sections 392, 397, 506, 411 and 34 of IPC and Sections 25 and 27 of Arms Act.

2. Bail application No. 448/2021 filed under Section 439 CrPC is for grant of regular bail in FIR No. 547/2020 dated 18.07.2020, registered at Police Station Model Town, Delhi, under Sections 392, 397, 506, 411 and 34 of IPC and Sections 25 and 27 of Arms Act.

3. On 18.07.2020, the complainant filed a complaint stating that on 09.07.2020, he returned to his house from his shop at around 8 PM. It is stated in the complaint that after having dinner at around 11 PM, when he was standing outside his house and was waiting for a meat merchant, to make a payment of Rs.50,000/- a Santro car bearing No. DL-7-CJ-0195 came near him and three people came out of the car and two of them put *Desi Kattas* on both sides of his waist and told him to be quiet otherwise they will shoot him. It is stated by the complainant that the accused persons looted him and took Rs.50,000/- from his pocket and they also took his gold chain before fleeing from the spot. It is stated in the complaint that when the accused were fleeing from the spot, he identified two of them by face. It is stated that the person driving the car was identified as Golu and the other accused was identified as Kake (the petitioner in BAIL APPLN. 422/2021). It is stated in the complaint that Kake took the money from his pocket and also looted his gold chain. The complainant states that after the incident he was horrified as the accused have threatened him of dire consequences if he approached Police or told anyone about the incident. It is stated that after a few days he mustered courage and approached Police on 18.07.2020. On the

said statement, FIR No. 547/2020 under Sections 392, 397, 506 and 34 of IPC and Sections 25, 27, 54 and 59 of Arms Act was registered.

4. During investigation, it was found that the abovementioned car belonged to one Mahaveer S/o Sher Singh. The police along with the complainant conducted a raid on the house of the said Mahaveer. During raid, the said Santro car was found at his home. Mahaveer was arrested. On the instance of Mahaveer, other co-accused persons namely Sunil Pahalwan @ Sunil Sood (petitioner in BAIL APPLN. 448/2021), Sandeep @ Kake (petitioner in BAIL APPLN. 422/2021) and accused Akash @ Golu were arrested on 19.07.2020. During investigation, one *desi katta* and two live cartridges were recovered from Mahaveer and one *desi katta* and two live cartridges and a sum of Rs.1,300/- were recovered from Sunil Pehalwan which was his share from the total loot and Rs.6,500/- and the gold chain were recovered from Sandeep@Kake. Charge-sheet has been filed on 12.10.2020.

5. Sandeep @ Kake (petitioner in BAIL APPLN. 422/2021) applied for bail before the Additional Sessions Judge, Rohini Courts on three occasions which have been dismissed on merits.

6. Sunil Pahalwan @ Sunil Sood (petitioner in BAIL APPLN. 448/2021) applied for bail before this Court which was dismissed vide order dated 02.11.2020.

7. The other accused Akash@Golu was granted bail by this Court vide order dated 11.12.2020 in BAIL APPLN. 3318/2020.

8. The petitioners have approached this Court for grant of regular bail stating that that they are innocent and they have been falsely implicated.

9. Notices were issued on 08.02.2021 and 11.02.2021 in BAIL APPLN. 422/2021 and BAIL APPLN. 448/2021 respectively. Status Reports have been filed.

10. Heard Mr. Sudeesh Kumar, learned counsel appearing for the petitioner in BAIL APPLN.422/2021, Ms. Sonika Tyagi, learned counsel appearing for the petitioner in BAIL APPLN.448/2021 and Ms. Kusum Dhalla, learned APP for the State and perused the material on record.

11. Mr. Sudeesh Kumar, learned counsel for the petitioner in BAIL APPLN.422/2021 would contend that the petitioner is in custody from 19.07.2020. He contends that the charge-sheet has been filed and no useful purpose would be served in keeping the petitioner in jail. He also very vehemently contends that the co-accused Akash @ Golu had been granted bail by this Court vide order dated 11.12.2020 in BAIL APPLN. 3318/2020. He therefore contended that the petitioner is entitled for bail on the ground of parity.

12. Ms. Sonika Tyagi, learned counsel for the petitioner in BAIL APPLN.448/2021 also contends that the petitioner is entitled for bail on the ground of parity.

13. *Per contra*, Ms. Kusum Dhalla, learned APP for the State would contend that the petitioners are accused of a very heinous crime punishable under Sections 392 and 397 IPC and on conviction the punishment under

Section 392 IPC is imprisonment to the extent of 14 years. She also contends that the case of the petitioners is not identical with that of Akash @ Golu inasmuch as the petitioners in the present case have come out with *kattas* and had put the *kattas* on the complainant. She would state that Akash @ Golu, who has been granted bail by this Court, was in the car and therefore the facts of both the cases are different. It is also contended by the learned APP that Sandeep @ Kake (petitioner in BAIL APPLN. 422/2021) has been identified by the complainant and he has criminal antecedents. She states that there are three criminal cases registered against him. She also states that the gold chain which was looted has been recovered from him. She further states that one *desi katta* and two live cartridges have been recovered from Sunil Pahalwan @ Sunil Sood (petitioner in BAIL APPLN. 448/2021).

14. The possibility of petitioners threatening the victim if enlarged on bail cannot be ruled out. As correctly pointed out by the learned APP, role attributed by the petitioners is completely different from the role of Akash @ Golu who has been granted bail by this Court vide order dated 11.12.2020 in BAIL APPLN. 3318/2020. The petitioners are accused of a very serious offence and if convicted the petitioners are liable to undergo imprisonment for up to 14 years. In any event, since the petitioners are involved in a very heinous offence parity alone cannot be the only criterion for grant of bail. In view of the fact that the complainant is yet to be examined, the petitioners are not entitled to bail at this juncture. The Trial

Court is directed to expedite the hearing and proceed ahead to frame charges and if charges are framed against the petitioners then examine the complainant within a period of one year from today.

15. Accordingly, the bail applications are dismissed.

APRIL 28, 2021

Rahul

SUBRAMONIUM PRASAD, J.

