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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Order pronounced on: 17.05.2022

+ BAIL APPL. 731/2022

MOHD. AZHARUDDIN

....Petitioner

Through: Mr. Rajpal Kasana , along with
Ms. Palak Munjal & Vishal
Khari Advs.

Versus

THE STATE (NCT OF DELHI)

... Respondent

Through: Ms. Neelam Sharma, APP for
the State with SI Aman Kumar,
PS Neb Sarai.**CORAM:****HON'BLE MR. JUSTICE TALWANT SINGH****TALWANT SINGH, J.**

1. This is an application for regular bail in case FIR No. 524/2020 under Sections 395/482/412/201/120B/174A IPC and Section 24/27 of Arms Act, PS Neb Sarai. It has been submitted that charge-sheet has been filed in the present case and matter is stated to be pending for taking cognizance and for committal to the Sessions Court. The cognizance is being delayed because necessary sanction under Section 39 of the Arms Act has not been obtained and FSL report has not been filed on record.

1.1 The case, as detailed in the FIR is that on 09.12.2020, some 6-7 unknown persons forcibly entered house of the complainant and all of them were wearing masks and gloves and the said accused persons took away Rs. 4 lakhs in cash, 4 gold chains, 2.5 kg silver, one bracelet and one digital



camera and one of them was also carrying a gun.

1.2 During investigation, co-accused namely Arman Malik was arrested and name of the present petitioner appeared in the disclosure statement of the co-accused. Proceedings under Section 82 Cr.P.C. were initiated against the petitioner. He was declared PO. Bail application of the petitioner was dismissed by learned ASJ on 10.02.2022.

1.3 The bail has been prayed on the ground that the petitioner has been falsely implicated; he is not named in the FIR; there is no evidence against the petitioner; the petitioner was arrested on 01.06.2021 and since then he is languishing in jail from more than 8 months; investigation is complete and charge-sheet has been filed; co-accused namely Sandeep @ Fauzi, Shiv Kumar and Anil Kumar are already granted bail; IO has not obtained sanction under Section 39 Arms Act and FSL report has not been filed till date and undue delay is being caused in the matter; petitioner is 21 year old pursuing BA; he has clean antecedent and he is suffering from health problems in Jail; there is no scientific evidence linking the present petitioner to the crime; the petitioner was arrested after six months of the alleging incident and, therefore, recovery of weapon shown puts serious doubt on the prosecution story; there was no occasion for the complainant to identify the present petitioner during TIP proceedings as in the FIR it is mentioned all the accused persons were wearing masks and gloves, so story of the prosecution is in doubt; jewellery and other articles have been recovered from co-accused persons, who are already on bail; the petitioner was illegally detained by police and he was mercilessly beaten and he had filed a writ petition, so as a matter of revenge, he was arrested and roped in the present case.

2. Notice was issued. Status report has been filed.



3. It has been mentioned in the Status Report that three accused persons were arrested on secret information on 12.12.2020. During investigation, recoveries were made from the said accused persons. On 14.12.2020, three more accused persons were arrested at the instance of already arrested accused persons and certain recoveries were made. During the sustained interrogation, accused persons disclosed that applicant Mohd. Azahrudin was master-mind of the crime and he was also present at the place of occurrence at the time of commission of offence as well as during conspiracy. Sincere efforts were made to trace the applicant/petitioner but no clue was found and ultimately he was declared PO vide order dated 08.04.2021. The reward of Rs. 25,000/- was also declared against the present accused/applicant and he was arrested on 01.06.2021. Three days PC remand was obtained, the weapon of offence, i.e., country made Katta and part of looted ornaments and mobile phones were recovered at the instance of the present accused. He was duly identified during TIP on 19.06.2021. The analysis of CDRs of mobile phones show that the present petitioner was in constant touch with other co-accused persons during conspiracy and commission of the crime. Charge-sheet already stands filed on 26.08.2021 and the case is still at the stage of consideration of charges, hence the bail has been strongly opposed.

4. The nominal roll has been called, which shows that the present accused/applicant is in custody since 01.06.2021; the jail conduct is good and there are no other cases or convictions pending.

5. Learned counsel appearing on behalf of the applicant argued on the same lines as mentioned in the bail application.

5.1 On behalf of the State, it has been reiterated that the present petitioner is master-mind of the crime and Desi made *Katta* was recovered from the



petitioner, the location of mobile phone was on the spot where the incident took place and he was duly identified during judicial TIP.

6. Keeping in view the fact that there is no criminal history of the present applicant; the other accused have been released on bail; recovery has been already made at the behest of the present applicant; he is no longer required for any further investigation and trial will take a long time, I am inclined to grant bail to the present accused/applicant on execution of personal bond of Rs. 25,000/- with one surety of the like amount subject to the following conditions:-

- (i) The petitioner shall share his mobile number with the IO within one week from the date of his release and he shall drop his location every day on the mobile number of the IO in the morning hours.
- (ii) The petitioner shall not leave country without seeking permission of the Trial Court.
- (iii) The petitioner shall attend the court proceedings on each and every date.
- (iv) In case of change of address, the applicant will inform the IO as well as Trial Court within two weeks.
- (v) The petitioner/applicant shall not contact the complainant or the witnesses directly or indirectly or to threaten or induce them during the pendency of the trial.

7. The bail application is allowed. The petition is disposed of accordingly.

TALWANT SINGH, J

MAY 17, 2022/nk

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