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

+ **BAIL APPLN. 205/2023**

FAISAL

..... Petitioner

Through: Mr. Vijay Kinger, Mr. Hemant Dixit,
Advvs.

Versus

STATE -GOVT. OF NCT OF DELHI

..... Respondent

Through: Mr. Amit Sahni, APP for the State
with IO SI Amit Beniwal, PS Vivek
Vihar.

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Date of Decision: 08th May, 2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present petition has been filed seeking bail in the FIR No. 471/2021 dated 09.09.2021 registered at PS Vivek Vihar under Section 186/ 332/ 353/ 411/482/34 IPC.
2. Briefly stated facts of the case are that equipment used for commission of auto theft and two stolen luxury cars were recovered from the accused and his associate. Moreover, the accused/petitioner has also attacked on the police official with iron rod. Two Adhar cards having different name and number were also recovered from the possession of the petitioner.
3. Learned counsel for the petitioner submits that petitioner is in custody for more than two years. It has further been submitted that the petitioner has already been acquitted in one of the cases.

4. Learned counsel for the petitioner submits that the petitioner is entitled to be admitted to bail as trial may take a long time.
5. Learned APP for the State has vehemently opposed the bail application. In the status report filed by the State, it has been submitted that the present accused is involved in the following cases:

Sr. No	e-FIR/FIR No	U/s	Police Station	Status of the Case/NDOH
1.	15560/20	379/411 IPC	Shalimar Bagh	NDOH is 04/05/23 for charge framing
2.	22370/20	379/411/3 4 IPC	Seemapuri	NDOH is 17/08/23 for consideration on charge
3.	19159/20	411 IPC	Mukherji Nagar	NDOH is 12/05/23 for charge framing
4.	12416/20	411 IPC	Maurya Enclave	NDOH is 23/05/23 for Misc. / Appearance
5.	403/12	379/411/4 82 IPC	Farsh Bazar	NDOH is 03/06/23 for Misc. / Appearance
6.	22836/20	379/411 IPC	Anand Vihar	NDOH is 19/07/23 for Misc.
7.	22006/21	379/411/4 82 IPC	Jyoti Nagar	NDOH is 09/10/23 for further proceedings
8.	24743/21	411/34 IPC	Rani Bagh	NDOH is 03/11/23 for misc/ appearance
9.	112/21	411/413/4 14/420 IPC	Asmanli Distt. Sambhal (U/P)	Pending Trial
10	780/21	379/411 IPC	Sec. 20 Gautam Budh Nagar	NDOH is 30/05/23 for framing charge
11	824/11	4/25 A, AC1	Hapur Nagar (UP)	NDOH is 15/06/23 for hearing
12	208/18	379 IPC	Banbhulpura District- Nainital, Uttarakhand	NDOH is 08/05/23 for examination of witness
13	702/18	379/34 IPC	Kotwali - Kashipur District- U.S Nagar Uttarakhand	NDOH is 10/07/23 for framing charge.
14	13/19	379/413/4 14/420/24 IPC	Kotwali Jaspur, Uttarakhand	Last date was 09/12/2022 for Appearance.
15	16/19	413/414/4 20/408/47 1/34 IPC	Kotwali Jaspur, Uttarakhand	Last date was 09/12/2022 for appearance.

6. Learned APP submits that there are other cases also in which the petitioner is involved. Learned APP has also placed on record the nominal roll sent by the Superintendent Jail which shows that the conduct of the accused has remained unsatisfactory.
7. Learned counsel for the petitioner submits that in fact, the petitioner was beaten by the jail officials and he had also moved an application before the learned Trial Court regarding same.
8. I have heard the submissions.
9. Though the general rule is bail and not jail however, the criteria for grant of the regular bail is very well settled. Besides the merits of the case, the person seeking the bail has to pass the test of being available during the trial and also to not threaten the other witnesses when released on bail. Moreover, the grant of bail requires the consideration of various factors which ultimately depends upon the specific facts and circumstances of the case before the Court. There is no strait jacket formula which can ever be prescribed as to what the relevant factors could be. However, certain important factors that are always considered, *inter alia*, relate to *prima facie* involvement of the accused, nature and gravity of the charge, severity of the punishment, and the character, position and standing of the accused [*State of U.P. v. Amarmani Tripathi*, (2005) 8 SCC 21].
10. The Apex Court in *Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav and Anr.* (2004 (7) SCC 528), has iterated the criteria for grant of bail. The court *inter alia* held as under:

"11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a

judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

- (a) The nature of accusation and the severity of punishment in case of and the nature of supporting evidence.
- (b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.
- (c) Prima facie satisfaction of the court in support of the charge.”

10. In the present case the petitioner is involved in multiple cases of similar nature which only shows that the petitioner is a habitual offender. Even the conduct of the petitioner as per the nominal role is unsatisfactory. I consider that it is not a fit case for grant of regular bail.

11. Thus, taking into account the totality of facts and circumstances of the present case the petitioner is not entitled to bail.

12. The present petition is dismissed.

DINESH KUMAR SHARMA, J

MAY 8, 2023/Pallavi

BAIL APPLN. 205/2023

Page 4 of 4