



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

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Reserved On: July 10, 2023

Pronounced On: July 19, 2023

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BAIL APPLN. 334/2023

NASEEB

..... Applicant

Through: Mr. Swarandeep Singh, Advocate

versus

THE STATE NCT OF DELHI

..... Respondent

Through: Mr. Aashneet Singh, APP for the
State

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

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J U D G M E N T

1. This is a bail application seeking grant of regular bail filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 being accused in FIR No.229/2022 dated 07.03.2022 registered at P.S.: DBG Road, Delhi under Sections 394/395/482/412/120B/34 of the Indian Penal Code, 1860 and under Section 25 of the Arms Act, 1959.

2. As per FIR, on 07.03.2022, the complainant while returning from office with one of his employees after collecting money, was assaulted by the applicant and other co-accused persons, who also took Rs.91,00,000/- from them. Thereafter, the applicant and the co-accused persons were apprehended from Rajpura, Punjab on 10.03.2022 when Rs.4,00,000/-, out of the total recovered amount of Rs.38,00,000/-, was recovered from the applicant. During investigation, a further amount of Rs.3,00,000/- was recovered from the applicant's house on 12.03.2022. Thereafter, charge



sheet was filed after conclusion of investigation and one of the co-accused persons was released on bail without conducting any Test Identification Parade (TIP).

3. Learned counsel for the applicant submits that the applicant is in judicial custody since 10.03.2022. He seeks parity with one of the co-accused person who has since been released on bail vide order dated 12.10.2022 passed by the learned Trial Court on account of his TIP having failed and also with another co-accused person who has also since been released on bail vide order dated 15.12.2022 passed by the learned Trial Court without his TIP being held.

4. Learned counsel for the applicant then took this Court through the three orders dated 09.09.2019, 11.09.2019 and 04.01.2022 wherein the applicant was released on bail by the Trial Court(s) and the order dated 03.06.2020 wherein also he was released on bail by the High Court of Punjab and Haryana at Chandigarh and lastly the order dated 23.03.2020 passed by the Addl. Sessions Judge, Rohtak wherein he was acquitted in one of the five FIR's registered against him. These orders, filed pursuant to order dated 17.03.2023 of this Court, show that the applicant has since been released on bail in four FIR's and further acquitted in one FIR. He further submits that there was no injury or wound mark on the complainant in the MLC. He also submits that there are no details of source of money of the complainant and that the money recovered from the applicant is from a sale of property.

5. Notice was issued and Status Report was filed. The Nominal Roll of the applicant was also called for.

6. The State in its Status Report has opposed the release of the applicant on bail on the ground that his TIP was not conducted as he was one of the



conspirators who had not come in direct contact with the complainant. Learned APP for the State, opposing the release of the applicant on bail submits that one of the co-accused was granted bail as his TIP had failed. He also submits that there is a likelihood of the applicant influencing the witnesses as the evidence is yet to be recorded.

7. The Nominal Roll shows that though in addition to the present FIR, there are five more FIR's registered against the applicant between the years 2016 and 2022 but the overall jail conduct of the applicant is satisfactory and there is no report of misconduct during interim/ bail/ parole.

8. This Court has heard the learned counsel for the applicant and the learned APP for the State and also perused the documents on record. As per the Status Report, the applicant is only one of the conspirators who never came in front of the complainant during the incident. In view of the aforesaid and considering that the role of the applicant is still unclear and almost same as the co-accused persons, who have already been released on bail by the learned Trial Court, this Court finds the applicant fit to be released on bail on the ground of parity. The fact that out of the five FIR's registered against the applicant, he has since been released on bail in four FIR's and also been acquitted in one FIR is also a relevant ground for consideration by this Court for releasing the applicant on bail in the present FIR.

9. Furthermore, considering the present scenario, there is every likelihood that the trial in the matter will relatively stretch over a period of time, which in the opinion of this Court, is another ground to release the applicant on bail as languishing him behind the bars during the period of trial shall serve no purpose and will certainly not meet the ends of justice. More so, as the Nominal Roll clearly shows that the overall jail conduct of



the applicant is satisfactory and there is no report of misconduct during interim/ bail/ parole, it is another reason for this Court to proceed with releasing the applicant on regular bail.

10. In view thereof, this Court deems it a proper case for releasing the applicant on bail. The applicant is accordingly directed to be released on regular bail in FIR No.229/2022 dated 07.03.2022 registered at P.S. DBG Road, Delhi under Sections 394/395/482/412/120B/34 of the Indian Penal Code, 1860 and under Section 25 of the Arms Act, 1959 on his furnishing a personal bond in the sum of Rs.1,00,000/- along with one surety of the like amount by family member/ friend having no criminal case pending against them, subject to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. Applicant shall not leave the National Capital Territory of Delhi without prior permission of this Court and shall ordinarily reside at the address as per prison records. If he wishes to change his residential address he shall immediately intimate about the same to the Jail Superintendent by way of an affidavit.
- ii. Applicant shall surrender his passport to the Investigating Officer, within three days. If he does not possess the same, he shall file an affidavit before the Investigating Officer to that effect within the stipulated time.
- iii. Applicant shall appear before the Court as and when the matter is taken up for hearing.
- iv. Applicant shall join investigation as and when called by the Investigating Officer concerned. He shall not obstruct or hamper with the police investigation and shall not play mischief with the evidence collected or yet to be collected by the Police.



v. Applicant shall provide all his mobile numbers to the Investigating Officer concerned which shall be kept in working condition at all times and shall not be switch off or change the mobile number without prior intimation to the Investigating Officer concerned. The mobile location be kept on at all times.

vi. Applicant shall report to the Investigating Officer at P.S.: DBG Road once every month in the first week of the month unless leave of every such absence is obtained from the learned Trial Court.

vii. Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the victim/complainant or any member of the victim's/complainant's family or tamper with the evidence of the case or try to dissuade them from disclosing such facts to the Court or to any police officials.

11. It is clarified that any observations made on the merits of the matter are only for the purposes of deciding the present application for releasing the applicant on bail and they shall not be construed as expressions on merits of the matter.

12. Copy of the present order be sent to the concerned Jail Superintendent for onward information and necessary compliance thereof.

13. Accordingly, the present application is disposed of in the above terms.

SAURABH BANERJEE, J.

JULY 19, 2023

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