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

+ **BAIL APPLN. 347/2023**

RIYASAT ALI

..... Petitioner

Through: Ms. Divya, Adv.

versus

STATE

..... Respondent

Through: Mr. Raghuvinder Verma, APP for the
State with ASI Shoraj Singh, PS
Wazirabad.

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Date of Decision: 6th February, 2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 2867/2023 (Exemption)

Exemption is allowed subject to all just exceptions.

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1. The present bail application has been filed under Section 439 of Cr. P.C. seeking grant of bail in case FIR No. 015527/2022 registered at PS Wazirabad under Section 379 IPC.

2. Learned counsel for the petitioner submits that the charge sheet has already been filed under sections 379/328/34 IPC and the petitioner is in custody since 11.06.2022. He further submits that no recovery of alleged stolen articles and vehicle of offence was effected and the case set up against the petitioner is only on the basis of disclosure of co-accused.
3. The perusal of the FIR indicates that the FIR was lodged for theft of an e-Rikshaw of the complainant as well as his mobile phone which is make techno IMCI No.356500546463129, 35656054643137. The case set up by the prosecution is that the petitioner along with the co-accused committed the theft of a mobile phone, phone lid and E-rikshaw from the complainant by giving intoxicated juice to him.
4. Learned APP for the State submits that the bail application was dismissed by the learned Trial Court on the ground that the MLC and FSL report are awaited and the petitioner had refused to join the TIP proceedings. Learned APP for the State further states that if the petitioner is released on bail he may not be available for trial.
5. I have considered the submissions. It is a settled proposition that the basic rule of the criminal justice system is bail and not jail. This court and the Supreme Court have said this time and again that the courts must enforce this principle in practice. It has to be borne in mind that denial of bail amounts to deprivation of personal liberty.
6. In the present case, a charge sheet has already been filed and it is an admitted case that no recovery was affected from the accused.

Further, the antecedents of the accused are also clear. Therefore, in my considerable opinion, the accused cannot be kept behind bars only because the MLC and FSL reports are awaited.

7. In the totality of the facts and circumstances, the petitioner be admitted to bail on furnishing a personal bond in the sum of Rs.10,000/-, with one surety of the like amount to the satisfaction of learned Trial Court subject to the following conditions:

- a) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- b) the petitioner shall provide his/her mobile number(s) to the Police In charge of the case and keep it operational at all times;
- c) the petitioner shall drop a PIN on the Google map to ensure that his location is available to the Police In charge ; and
- d) in case of a change of residential address and/or mobile number, the petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.

7. With the above directions, the bail application stands disposed of.

8. A copy of the order be sent to the concerned Jail Superintendent for information and compliance.

DINESH KUMAR SHARMA, J

FEBRUARY 6, 2023/Pallavi

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