

IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 13.01.2023

+ **BAIL APPLN. 2782/2022**

MOHD JUNAID QURESHI

..... Applicant

versus

THE STATE (NCT OF DELHI)

..... Respondent

Advocates who appeared in this case:

For the Applicant : Mr. Ravinder Kumar, Adv.

For the Respondents : Ms. Priyanka Dalal, APP for the State with
SI Sandeep Singh, PS Laxmi Nagar

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HON'BLE MR. JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present application under section 439 Cr.P.C. for grant of regular bail is filed in FIR No. 341/2021, registered at police station Laxmi Nagar, under Sections 392/397/411/201/120-B/34 of the Indian Penal Code, 1860 (IPC) and sections 25/27 of the Arms Act.
2. The FIR was registered on a statement of Alauddin alleging that he alongwith another employee, namely Pawan working in the Branch office of Mannapuram Finance Ltd., were going to deposit the cash of Rs.9.5 lakhs in bank. They were robbed on gunpoint by two persons near Metro Station, Laxmi Nagar. Those two persons fled away on a motorcycle with another associate who was standing there.

3. During investigation, the said motorcycle was traced and was found to be in possession of accused Javed at the time of incident. Javed was arrested on 16.06.2021, who disclosed that the offence was committed with other co-accused persons, namely, Aslam, Imran Junaid (applicant) and one employee of Mannapuram Finance Ltd. i.e. Pooja.

4. It is alleged by the prosecution that accused Pooja and Aslam planned a conspiracy to loot the cash of Mannapuram Finance Ltd. Accused Aslam then included accused Imran, Javed and Junaid in the conspiracy.

5. Accused Imran, Javed and Pooja were arrested on 16.06.2021. Rs.95,000/- (Rupees Ninety Five Thousand) was recovered from the accused Javed and Rs.1.20 lakh was recovered from the accused Imran. Applicant (Junaid) was thereafter arrested on 21.06.2021 on a disclosure statement given by co-accused Javed. It is further alleged that one country made pistol each was recovered from accused Junaid and Aslam.

6. It is contended by learned counsel for the applicant that all the co-accused persons have been granted bail and he is entitled to bail on the ground of parity. He submits that the applicant is a young man of 24 years of age and has been falsely implicated. He submits that the country made pistol was planted on the applicant. There are no public witnesses to the said recovery.

7. Learned APP for the State opposes the grant of bail. He submits that the role of the applicant is not similar to the other co-accused persons.

8. It is not in dispute that co-accused Pooja who even, as per the prosecution, was mastermind of the crime has been granted bail by this Court by an order dated 24.08.2021. It is also not disputed that the co-accused Imran, Aslam and Javed have already been released on bail.

9. Even though it is contended that the role of the applicant is different since the country made pistol was recovered at his instance, the recovery of country made pistol was also alleged to have been made from co-accused Aslam, who was granted bail by the learned Trial Court by order dated 06.08.2022.

10. The applicant is stated to be involved in other cases as well. In those cases, he is either on bail or has been acquitted.

11. The Hon'ble Supreme Court in the case of ***Prabhakar Tewari v. State of U.P., (2020) 11 SCC 648*** had observed that mere pendency of several criminal cases against the accused cannot itself be the basis for refusal of bail. The same can be a factor, however, cannot a sole basis for refusal of prayer of bail.

12. When all the accused persons, including the alleged mastermind have already been granted bail, it cannot be alleged that there is an apprehension of tampering with the evidence or threatening the witnesses. Moreover, the apprehension can be taken care by putting appropriate conditions.

13. The applicant is in incarceration since 21.06.2021 and is stated to be 24 years of age. Thus, keeping in view the facts and circumstances as stated above, the role assigned to the present

applicant and the period of custody already undergone, this Court feels that the applicant is entitled for grant of bail.

14. The applicant is, therefore, directed to be released on bail on furnishing a bail bond for a sum of ₹25,000 (Rupees Twenty Five Thousand Only) with one surety of the like amount to the satisfaction of the learned Trial Court / Duty Metropolitan Magistrate, subject to the following terms and conditions:

- (i) The applicant shall not leave the NCT of Delhi without prior permission of the concerned Court;
- (ii) The applicant shall, upon his release provide his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times during the pendency of the trial;
- (iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court;
- (iv) The applicant shall regularly appear before the Trial Court as and when directed;
- (v) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.

15. In the event of there being any FIR / complaint lodged against the applicant or the applicant is found to have violated the conditions stated above, the State is at liberty to file an appropriate application seeking cancellation of bail.

16. The present application is allowed in the aforesaid terms.

17. It is, however, made clear that any observation made in the present order are only for the purpose of deciding the present application and no should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

18. *Dasti* under signature(s) of the Court Master.

JANUARY 13, 2023

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AMIT MAHAJAN, J

