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

+ **BAIL APPLN. 228/2024**

NAVEEN KUMAR

..... Applicant

Through: **Mr.Akash Karan Sinsinwar,**
Adv.

versus

STATE NCT OF DELHI

..... Respondent

Through: **Ms.Priyanka Dalal, APP with**
SI Kamlesh.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

22.02.2024

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1. This application has been filed under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'Cr. P.C.') praying for release on Bail in FIR No.88/2021 registered at Police Station: Bawana, Outer North District, Delhi under Section 392/397/34 of the Indian Penal Code, 1860 (in short, 'IPC') and in the proceedings emanating therefrom.

2. It is the case of the prosecution that on 20.02.2021, a PCR call, recorded vide DD No.36A, was received in Police Station: Bawana. The complainant along with the eye-witness stated that the complainant is the Manager at Indian Oil, 'COCO' petrol pump, Sector-3, DSIIDC Bawana, Delhi. He along with the eye-witness was going on his bike to deposit cash from the petrol pump, kept in a blue-coloured bag, in the ICICI bank. Suddenly, three boys sitting on an unknown bike came from behind and hit the bike of the complainant,



knocking down his bike. The boy sitting on the back seat of the unknown bike came towards the complainant and the eye-witness and showed them a pistol and looted the bag containing the cash and they all ran away from the spot. It is alleged that the bag also contained the complainant's Aadhar Card, Pan Card, Driving License, and Registration Certificate of the abovementioned bike of the complainant and the passbook of the bank account of the petrol pump.

3. The prosecution further alleges that the co-accused, namely Mr.Parvesh Goriya, had been arrested in a case FIR No.98/2021 registered at Police Station: Prashant Vihar. He disclosed his involvement along with co-accused Akash and the Applicant herein in the present case.

4. The prosecution further alleges that the co-accused, Parvesh Goriya, was formally arrested after taking permission from the Court and the Police Custody Remand was obtained. Search was made to trace out the co-accused Akash and the Applicant herein. It is stated that during the course of the investigation, it also came to the knowledge that the Applicant was in judicial custody in FIR No.159/2021 registered at Police Station: Kanjhawala, Delhi. On 09.04.2021 the Applicant was formally arrested in the present case. It is alleged that the Applicant refused the TIP. He, however, disclosed that he along with the co-accused persons had committed the robbery on the bike belonging to Akash. The robbed amount, however, was not recovered. Thereafter, the chargesheet has been filed.

5. The learned APP points out that during the investigation, the Applicant was taken to the petrol pump where the complainant



suddenly came out and identified the Applicant as one of the persons who had attacked and robbed him on the day of the incident.

6. The learned counsel for the Applicant submits that the applicant is being involved in the present case only on the basis of the alleged disclosure statement made by the co-accused Parvesh Goriya. He submits that no recovery has been made from or at the instance of the Applicant. He further submits that the alleged disclosure statement of co-accused Parvesh Goriya can also not be relied upon as he had also named Akash in the crime as a co-accused, whereas it is now an admitted fact that on the date of the incident, Akash was, in fact, in judicial custody in relation to the FIR No.612/2014 registered at Police Station: Khekda, Bhagpat, Uttar Pradesh under Section 2/3 of the Gangster Act.

7. He further submits that the alleged statement of the complainant identifying the Applicant as the assailant can also not be relied upon inasmuch as the photograph of the Applicant had already been shown to the complainant and it is for that reason that the Applicant refused the TIP.

8. On the other hand, the learned APP submits that in the present case, the Applicant has been named by the co-accused Parvesh Goriya as one of the co-accused in committing the alleged crime. She submits that the Applicant is also found involved in various other criminal cases, details whereof have been given in the Status Report. She submits that merely because no recovery has been made from the Applicant, the same cannot be a ground to release him on Bail. She submits that, in fact, in his disclosure statement, he has stated that the



money stood distributed amongst all the co-accused persons.

9. I have considered the submissions made by the learned counsels for the parties.

10. As is evident from the above, apart from the disclosure statement of co-accused Parvesh Goriya, and the alleged statement of the complainant identifying the applicant as one of the co-assailants, which allegedly took place much after the incident and the arrest of the Applicant, there is no other evidence against the applicant.

11. Keeping in view the above, the Applicant has made out a case for being released on Bail.

12. Accordingly, it is directed that the applicant Naveen Kumar be released on Bail in FIR No.88/2021 registered at Police Station: Bawana, Outer North District, Delhi under Sections 392/397/34 of the IPC on furnishing a personal bond in the sum of Rs.25,000/- with one local surety of the like amount to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. The Applicant will not leave the country without the prior permission of the learned Trial Court.
- ii. The Applicant shall provide his permanent address to the learned Trial Court. The applicant shall also intimate the Court, by way of an affidavit, and to the IO regarding any change in his residential address.
- iii. The Applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The Applicant shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the



applicant in a working condition at all times and shall not be switched off or changed by him without prior intimation to the learned Trial Court and the IO concerned. The mobile location be kept on at all times.

- v. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact, directly or indirectly, with any of the prosecution witnesses.

13. Needless to state, any observation touching upon the merits of the case is purely for the purposes of deciding the question of grant of Bail and shall not be construed as an expression on the merits of the matter.

14. The Bail application is disposed of in the above terms.

15. Copy of this order be sent to the Jail Superintendent for information and necessary compliance.

NAVIN CHAWLA, J

FEBRUARY 22, 2024/Arya/AS

Click here to check corrigendum, if any