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

+ **BAIL APPLN. 858/2023**

MANOJ KUMAR

..... Petitioner

Through: Mr Amit Alok, Advocate.

versus

STATE

..... Respondent

Through: Mr Ritesh Kumar Bahri, APP for the
State with SI Ashwani Yadav, PS
Fatehpur Beri.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

11.03.2024

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1. The present petition has been filed seeking regular bail in connection with FIR No.0047/2021 under Sections 458/395/412/120B/506/34 IPC and Sections 25/27 Arms Act, registered at PS Fatehpur Beri.
2. The case of the prosecution is that three persons entered into the complainant's house at about 2:00 AM and one of the persons took a pistol and aimed at the complainant's ears. They stole all the gold items and other jewellery articles including the one which was already worn by the women. They kept looting till 3:30 AM and ran away from the house keeping all the belongings in a black colour bag.
3. Learned counsel for the petitioner submits that out of the six accused persons, who have been arraigned as accused in the FIR, five persons have already been enlarged on bail and they are similarly situated to the present



petitioner.

4. He further submits that no recovery of weapon was made either from the petitioner or at his instance. The recovery made was only to an extent of Rs.2,000/- cash and there is no evidence to connect the said cash with the allegedly looted cash.

5. He submits that the learned Additional Sessions Judge-01, (FTC) South District, Saket, New Delhi vide order dated 02.12.2022 had rejected the bail of the petitioner on three grounds viz., (i) that the petitioner had not joined the investigation; (ii) that the proceedings under Section 82 CrPC were initiated against him on 03.03.2021; and (iii) that the petitioner is stated to be previously involved in three other cases.

6. Learned counsel submits that the petitioner is in custody since 09.05.2021, therefore, the grounds that the petitioner has not joined the investigation, as well as, the initiation of proceedings under Section 82 CrPC have become irrelevant.

7. He submits that insofar as the cases alleged against the petitioner is concerned, out of the three cases, two cases are under the Excise Act and in the third case, which was registered in Haryana, the petitioner was convicted and his sentence has now been suspended by the High Court of Punjab and Haryana *vide* order dated 08.05.2017 passed in CRA-S No.230-SB of 2017 (O&M). In support of his contention, the learned counsel for the petitioner has handed over the order passed by the Punjab and Haryana High Court, the same is taken on record.

8. Learned APP for the State has argued on the lines of the status report.

9. It is not in dispute that out of six accused persons, five accused persons, who are similarly situated to the present petitioner, have already



been enlarged on bail, therefore, the petitioner is also entitled to grant of regular bail on the ground of parity.

10. That apart no recovery of weapon of offence was made from the petitioner. Further, the petitioner is in custody since 09.05.2021 and has spent almost three years in custody.

11. Since the investigation is complete and the chargesheet has been filed, therefore, the custody of the petitioner is no more required.

12. Insofar as the other pending cases registered against the petitioner are concerned, as noted above, two of them are stated to be under the Excise Act and in the third case the petitioner was convicted but subsequently his sentence has been suspended by the Punjab and Haryana High Court *vide* order dated 08.05.2017.

13. Considering the aforesaid facts and circumstances in entirety, I am of the view that the petitioner is entitled to grant of regular bail subject to his furnishing a Personal Bond in the sum of Rs. 25,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/CMM/Duty Magistrate, further subject to the following conditions:-

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
- c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.

14. The petition stands disposed of.



15. It is made clear that nothing stated above is to be construed as an expression of opinion on the merits of the case.
16. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.
17. Order *dasti* under signatures of the Court Master.
18. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

MARCH 11, 2024
MK