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

+ **BAIL APPLN. 701/2024**

KASIF @NANHE

..... Petitioner

Through: Mr. Chandan Kumar Mandal and Mr.
G.K. Chauhan, Advocates.

versus

THE STATE GOVT. OF NCT OF DELHI AND ORS.... Respondents

Through: Mr. Hemant Mehla, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

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09.04.2024

1. The present application under Section 439 read with Section 482 of the Cr.P.C. seeks regular bail in case FIR No. 574/2022, under Sections 392/394/397/411/482/34 of the IPC, registered at P.S. Civil Lines.
2. The case of the prosecution as per the status report dated 07.04.2024 authored by Insp. Rajeev Kumar is as under:-

“1-That the brief facts of the case are that present case was registered on the statement of complainant Sh. Sujeet Kumar S/o Sh. Raman Jha R/o C-14 Kabir Nagar Shahdra, Delhi who alleged that in the intervening night of 26-27/11/22, he was going to his home from Karol Bagh to Jhandewalan Azadpur through his M/cycle bearing registration No. DL5S AT-0365. At about 2:30 AM, he stopped his M/cycle at Tis Hazari red light. Thereafter, as the red light turned to green, he started his M/cycle but approx 50 mt. away, suddenly 3 unknown boys, on a red & black colour scooty, came there and stopped his m/cycle. Suddenly, one boy attacked upon him and stabbed with knife in his stomach & right leg. In between another boy, robbed his Vivo-22 mobile phone and Rs. 1000 cash from his jacket. On this sudden action, complainant got scared and could not resist them. After that, the boys escaped from the spot by their scooty. The complainant was admitted to Aruna Asa Ali Hospital for treatment. Thereafter, the above mentioned case was registered into the



matter and investigation was taken up.

2-That during the course of investigation on 29/11/22, two accused namely 1.) Kasif @ Nanhe S/o Md. Rashid R/o H. No. 1/326 Gali No-18/1/2 Gautam Puri Delhi and 2.) Mahfuj @ Juned S/o Jamir R/o Amit Enclave, Kashim Vihar, Loni Ghaziabad U.P. were arrested in the present case and a Scooty bearing registration No. DL7S CK-6601 was also recovered on their instance which was used during the commission of offence. On enquiry, the recovered Scooty having registration No. DL7S CK-6601 was also found stolen from the area of PS Welcome. Both the accused had disclosed that they have committed the above mentioned offence near Tis Hazari red light on 27/11/22 along with one other co-accused person namely Guljar. One another stolen M/cycle having registration No. DL7S BP-6837 was also recovered from their possession, which was stolen from the area of PS Farsh Bazar vide E-FIR No. 033496/22 has already been registered.

3. That during further course of investigation, both accused persons refused to take participation in TIP proceedings before Hon'ble Court. Thereafter, during investigation, the complainant has identified both the accused persons from the photo of dossiers in Police Station. Apart from this, case property i.e. robbed Mobile phone of complainant was also recovered on the instance of accused Mahfooj @Juned which was further got released on superdari. However co-accused Guljar, whose address has not come on record is yet to be arrested.

4. That after completion of investigation, chargesheet and Supplementary Chargesheet into the present case has been filed before Hon ble trial court, which is pending trial and next date of hearing is fixed on 17-05-2024. Apart from this, investigation qua co-accused Gulzar is still going on.”

3. Learned counsel appearing on behalf of the applicant submits that the complainant in the present case, i.e., Sujeet Kumar, has been examined as PW-1 and has not identified the present applicant as an alleged perpetrator of the crime. It is pointed out that no other public witness remained to be examined *qua* the present applicant regarding his role in the present FIR. It is further submitted that the present applicant is in custody since 29.11.2022. It is pointed out that he has been released on interim bail earlier and has duly surrendered on time without misusing the liberty granted to him. It is



submitted that the present applicant is ready and willing to abide by any condition that may be imposed by this Court on him.

4. *Per contra*, learned APP for the State submits that the present applicant has been previously involved in another FIR of similar nature. He, on instructions from the Investigating Officer, further submits that the complainant has not identified the present applicant during the course of examination.

5. Heard learned counsel for the parties and perused the record.

6. Complainant examined as PW-1 has not supported the case of the prosecution regarding the role attributed to the present applicant in the FIR. Applicant is in judicial custody since 29.11.2022 and has been granted interim bail on previous occasion. The other involvements as reflected in the nominal roll shows that the applicant is already on bail in the said cases.

7. In totality of the facts and circumstances of the case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 25,000/- with two sureties of like amount one of whom should be a family member, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in 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 is directed to give his mobile number to the



Investigating Officer and keep it operational at all times.

- v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
- vi. The applicant shall report at the concerned Police Station once in a week, i.e., on every Friday at 04:00 PM and the concerned officer is directed to release him by 05:00 PM after recording his presence and completion of all the necessary formalities.
- 8. The application is allowed and disposed of accordingly.
- 9. Pending applications, if any, also stand disposed of.
- 10. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.
- 11. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
- 12. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

APRIL 09, 2024/sn

Click here to check corrigendum, if any