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

+ **BAIL APPLN. 770/2024**

NAUSHAD

..... Petitioner

Through: Mr. Yogesh Sharma, Ms. Pratima
Ravi, Mr. Yogeshwar Singh & Mr.
Yugant, Advs.

versus

STATE (THROUGH SHO PS BURARI)

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Sudhir Rathi, P.S. Burari.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

02.04.2024

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1. The present application under Section 439 of the Cr.P.C. seeks regular bail in case FIR No. 028/2022 under Sections 395/323/412 of the IPC, registered at P.S. Burari.

2. The case of the prosecution as per the status report dated 29.03.2024 authored by Insp. Ajit Kumar, SHO/Burari, Delhi is that aforesaid FIR was registered at the instance of complaint of injured Sandeep Kumar. The complainant in his statement has alleged that on 07.01.2022 at around 9:30 P.M, he was sitting inside his shop, one Champion (goods carrier) driver and his associate namely, Naushad (the present applicant) were arguing with one scooterist. It is alleged that when the complainant tried to intervene in the matter both the aforesaid persons started manhandling him and left the spot. It is further alleged that after 15-20 minutes, the aforesaid two persons



reached the shop with four other persons and dragged the complainant out of his shop. It is alleged that the goods driver namely Bilal put his hand inside the pocket of the complainant, which was resisted by him and due to this, all of them started beating the complainant with fists and sticks and fled the spot.

3. After registration of the case, during the investigation, the present applicant Naushad was arrested on 08.01.2022, who was identified by the complainant and an amount of Rs. 2,000/- was recovered from him. It is stated that after the information given by the present applicant, other co-accused persons were arrested, who were also identified by the complainant.

4. Learned counsel appearing on behalf of the applicant submits that the investigation in the present case is complete, chargesheet has been filed and the applicant has been in judicial custody since 08.01.2022. Learned counsel for the applicant submits that the fight between the complainant and the present applicant and his co-worker has been given a nature of robbery, as otherwise no offence has been made out and it was an altercation that took place on that day. The applicant is ready and willing to abide by any terms and conditions as deemed fit and proper.

5. *Per contra*, learned APP, on instructions of the Investigating Officer, submits that the present applicant was identified by the complainant and the CCTV footage with respect to the said incident is also on record. It is further submitted that chargesheet has been filed, however, charges are not yet been framed on account of a FSL report.

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

7. Investigation in the present case is complete and chargesheet stands filed. As per the nominal roll dated 29.03.2023 received from



Superintendent, Central Jail No. 04, Tihar, New Delhi, the applicant has been in custody since 08.01.2022 and has undergone incarceration for 2 years, 2 months and 11 days. It is further reflected that the applicant is not involved in any previous offence. It is also pointed out that co-accused Sameer Malik has already been granted bail by this Court, *vide* order dated 19.02.2024 in BAIL APPLN. 4113/2023.

8. In totality of the facts and circumstances, 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 one surety of like amount, 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.

9. The application is allowed and disposed of accordingly.

10. Pending application(s), if any, also stand disposed of.

11. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.



12. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

APRIL 02, 2024/nk

Click here to check corrigendum, if any