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

+ **BAIL APPLN. 1850/2023**

BIPIN SHARMA

..... Petitioner

Through: Mr. Shuvam Shivam and Mr. Dinesh
Kumar, Advs.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Hemant Mehla, APP for State
with SI Akash Kumar, PS.
Bhajanpura.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

20.02.2024

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1. The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in connection with FIR No. 8/2020 under Sections 364A/411/120B/34 IPC registered at Police Station Bhajanpura.
2. The case of the prosecution is that the complainant made a statement that his brother had gone for a meeting to meet his friends on 03.01.2020 at Gururgram and thereafter, he went missing. As per the statement of the victim who was subsequently recovered, he had gone to meet the petitioner, who with the help of co-accused persons forced him into the car and threatened him that they will break his legs if he did not transfer money to their account. The victim was also made to call his brother asking for OTP to transfer the money. It is also the case of the prosecution that the victim i.e., the brother of the complainant was found in a gagged state in the car.



3. The learned counsel for the petitioner submits that no weapon has been recovered either from the petitioner or at his instance to show that the present petitioner had threatened the victim or had caused any apprehension of death or hurt in the mind of the victim.
4. He further submits that no independent witness has been roped in by the prosecution to prove the arrest of the present petitioner from the place of incident.
5. He submits that the screenshot of the text messages has not been placed on record to substantiate the case that the victim was in touch with his brother and asked for the OTP to transfer the money, nor there is any CDR on record to indicate the presence of the petitioner at the place of incident.
6. Further the contention of the learned counsel is that the petitioner is in custody since 04.01.2020 and has been incarcerated for more than four years. According to him, as the charge sheet has been filed and the trial is underway, therefore, the custody of the petitioner is no more required.
7. He submits that the antecedents of the petitioner are clean and he is a resident of Darjeeling and has roots in the society, therefore, there is no possibility of his fleeing from the administration of justice, in the event he is enlarged on bail.
8. He, therefore, urges the Court to enlarge the petitioner on bail.
9. *Per contra*, the learned APP has made his submissions in terms of the Status Report, which is on record.
10. On query posed by the Court, the learned APP, on instructions from the I.O, fairly states that no weapon was recovered from the present petitioner. It is also a matter of record that there are no public witnesses in



the present matter. Even the Seizure Memo and Arrest Memo have not been signed by any independent witnesses.

11. It is also not in dispute that no CDR record has been made part of the chargesheet to establish the presence of the present petitioner at the place of incident nor the screenshot of the text messages are part of the record to establish the case of the prosecution.

12. That apart, the investigation is complete and the trial is underway, however, under the given facts and circumstances, the petitioner cannot be kept in custody for an indefinite period to await the outcome of the trial when the petitioner has already been incarcerated for more than four years.

13. In so far as the apprehension expressed by the prosecution in the Status Report that the petitioner may jump the bail as he does not have a permanent address in Delhi, the same can be dispelled by putting appropriate conditions.

14. Considering the aforesaid facts and circumstances in entirety and regard being had to the long incarceration of the petitioner, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is enlarged on regular bail subject to his furnishing a Personal Bond in the sum of Rs. 20,000/- 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.

15. The petition stands disposed of.

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

FEBRUARY 20, 2024/dss