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

+ **BAIL APPLN. 1431/2024**

RAJESH @ MUNEEL

.....Petitioner

Through: Mr. Amjad Khan, Mr. Sumit Kumar,
Mr. Aditya Kumar, Mr. Amit
Khowal, Advs.

versus

STATE

.....Respondent

Through: Ms. Priyanka Dalal, APP for State
and SI Ajay Singh, PS Shahbad
Dairy.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

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05.08.2024

1. The present bail application has been filed under Section 439 r/w 482 Cr.P.C. seeking grant of regular bail to the applicant/petitioner in case FIR NO. 436/2020 under Section 302/396/412/379/411/34/120B IPC registered at PS Shahbad Dairy, Delhi.
2. Learned counsel for the petitioner at the outset submitted that co-accused Vishal @ Vikash has been granted bail by this court in Bail application No. 1684/2024 vide order dated 09.07.2024. Learned counsel submits that the role assigned to the present petitioner is identical to that of accused Vishal @ Vikash and therefore he may also be admitted to bail.
3. Learned APP for the state has opposed the bail application on the ground that the role of Vishal @ Vikash is not similar to that of the present petitioner. Learned APP further submits that the present petitioner was the main conspirator.



4. Learned APP for the state submits that the present petitioner was an employee of the deceased and he hatched the conspiracy to rob the deceased.
5. It is a matter of record that as per the status report filed by the prosecution on the basis of CCTV surveillance accused Suchit @ Golu and Chintu @ Daulatram were apprehended initially and thereafter the present petitioner and accused Ansar were arrested.
6. Allegedly Rupees Nine Thousand was recovered out of the robbed amount from the present petitioner. The petitioner in his disclosure statement had stated that he had hatched the conspiracy to rob the deceased.
7. The principles underlying the grant of bail in serious cases are *inter alia* held by the Hon'ble Supreme Court in ***Kalyan Chandra Sarkar v. Rajesh Rajan*** (2004) 7 SCC 528:

“The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness



or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge. (See Ram Govind Upadhyay v. Sudarshan Singh[(2002) 3 SCC 598 : 2002 SCC (Cri) 688] and Puran v. Rambilas [(2001) 6 SCC 338 : 2001 SCC (Cri) 1124] .)”

8. It is a settled proposition that rule is bail and not the jail. The court while considering the same has also to consider the period of incarceration. The detention during the court of trial cannot be converted into primitive detention. The role of the present petitioner is also different from Suchit @ Golu and Chinut @ Daulatram and Rahul. It is a settled preposition that the court at this stage is only required to look into the prima facie case. The meticulous examination of the facts are not permitted at this stage. The petitioner is stated to be 26 years of age and is in custody since 17.09.2020. It is also matter of record that the petitioner was granted interim bail three times and he has not misused any of such.
9. In view of the facts and circumstances, the petitioner is admitted to bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned **Court/MM/CMM/Duty MM** with the following conditions:
 - a) the Petitioner shall cooperate in the investigation and appear before the Investigating Officer of the case as and when required;
 - b) the Petitioner shall under no circumstances leave India without prior permission of the Court concerned;
 - c) the Petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;



- d) the Petitioner shall provide his/her mobile number(s) to the Investigating Officer and keep it operational at all times; and
 - e) In case of change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.
10. The application stands disposed of.

DINESH KUMAR SHARMA, J

AUGUST 5, 2024/AR/DG..