



\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Date of Decision: 29.04.2024

+

BAIL APPLN. 1457/2024**SAMEER @ YOGESH**

..... Petitioner

Through: Mr. Sunil Kumar Lakra, Mr. Nitin
Gupta & Ms. Priya Gupta, Advocates.

versus

THE STATE OF NCT OF DELHI

..... Respondents

Through: Mr. Manoj Pant, APP for the State
with SI Vivek Singh, P.S.: Sarojini
Nagar.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J. (ORAL)****CRL.M.A. 12701/2024 (exemption)**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

BAIL APPLN. 1457/2024

3. The present bail application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed by the petitioner seeking regular bail in case arising out of FIR bearing No. 264/2009, registered at Police Station Sarojini Nagar, Delhi, for offences punishable under Sections 327/382/392/395/411/34 of the Indian Penal Code, 1860 ('IPC').
4. Issue notice. Mr. Manoj Pant, learned APP accepts notice on behalf of



the State.

5. Briefly stated, facts of the present case are that the present FIR was registered on the complaint of complainant Sandeep Dhawan, who had stated, that on 27.08.2009, he had gone to a pub, which was located in Saket, and thereafter, after coming from there, had called one 'Pari', with the intention of having fun. It was also stated by the complainant that he had met Pari earlier on several occasions, with her boyfriend Haider. When the complainant had called Pari, she had told him to meet her at Rajendra Dhaba, and after the complainant had reached the place, his friend Haider came and took him to a house situated in Street No. 3, Krishna Nagar, Safdarjung Enclave, where Pari and the accused persons, namely Kabir, Rohan and the present applicant/ accused Sameer were present. Thereafter, the co-accused Haider had informed the complainant that he will take Pari to room, and give her Rs. 10,000 for the work, to which the complainant refused. The complainant had then proceeded to leave the place, after which accused persons namely Haider, Rohan and the present applicant/accused Sameer kicked him and had snatched his purse, which contained an amount of Rs. 3,000/-, some visiting cards, two mobiles and his car keys. The complainant had somehow escaped from the place, but did not inform anyone due to fear, and informed the Police authorities only after recovering from the instance.

6. Learned counsel for the applicant argues that the present applicant/accused has been falsely implicated in the present case and has been in custody since 18.09.2023, where he was re-arrested in the present FIR. It is submitted that the applicant got bail in the said FIR, and thereafter, he was regularly appearing in the case in-person and through his counsel



from year 2010 to 16.04.2018, however, due to unforeseen circumstances, present applicant had started living in Bangalore, and due to dispute with his wife, he had failed to respond to calls and appear before the learned Trial Court. The present applicant was declared a *Proclaimed Offender* on 05.12.2018. It is further stated that the applicant was re-arrested on 18.09.2023, and was sent to judicial custody on 19.09.2023, and since then the petitioner is in judicial custody. It is stated that the petitioner had moved two bail applications before the learned Trial Court which were dismissed. It is further submitted that 12 witnesses have already been examined out of total of 19 witnesses. It is further argued that the present applicant/ accused was declared a *Proclaimed Offender*, since due to depression, he did not appear before the learned Trial Court. It is also not disputed that the material witnesses stand examined. Thus, it is prayed that the present application be allowed and be released on bail.

7. Learned APP appearing on behalf of the State, on the other hand, argues that the allegations against the present accused/ applicant are serious and grave in nature. The present accused/ applicant had failed to appear before learned Trial Court since 24.02.2018, and had only appeared after the issuance of non-bailable warrants against him. The present applicant/ accused had again failed to appear on 04.05.2018, after which he was declared a *Proclaimed Offender*, and was arrested on 18.09.2023. The conduct of the applicant/ accused has not been cooperative, and hence it is prayed that the present bail application be dismissed.

8. This Court has heard arguments and has perused the material available on record.

9. After perusing the case file, this Court notes that the present FIR



pertains to the year 2009, and the present applicant/ accused was released on bail *vide* order dated 23.04.2009, passed by the learned Trial Court. It is noted that the present applicant/ accused had failed to appear before the learned Trial Court since 24.02.2018, and had appeared only after the issuance of non-bailable warrants against him. The present applicant/ accused had again failed to appear before the learned Trial Court on 04.05.2018, after which he was declared a *Public Offender*, and he was arrested on 18.09.2023, and has been in custody since then. This Court also takes note of the submission made by the learned counsel for the applicant/ accused that the applicant was not residing in Delhi, due to a dispute with his wife and had failed to appear before the learned Trial Court only due to this reason.

10. Keeping in view all the facts and circumstances of the case and that the accused/petitioner is in custody since 18.09.2023, when he was re-arrested in the present FIR, this Court is inclined to grant regular bail to the petitioner on his furnishing personal bond in the sum of Rs. 25,000/- with two sureties of the like amount to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned, which will be verified by the SHO concerned, after being sent by the concerned Trial Court, on the following terms and conditions:

- i) The applicant shall not leave NCT of Delhi without prior permission of the concerned IO/SHO.
- ii) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.



iii) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court.

11. The bail application stands disposed of.
12. The Judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

APRIL 29, 2024/at