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

+ **BAIL APPLN. 1498/2024**

SUNNY

.....Applicant

Through: Mr. Hitesh Thakur, Ms.  
Tanushka Kohli & Mr.  
Vikas Kumar, Advs.  
(through VC)

versus

STATE GOVT. OF NCT OF DELHI .....Respondent

Through: Mr. Ajay Vikram Singh,  
APP for the State  
SI Arvind Kumar, PS-  
Mandir Marg

+ **BAIL APPLN. 2581/2024**

RAHUL

.....Applicant

Through: Ms. Neha Kumari, Mr.  
Rahul, Mr. Nikesh Kumar  
Chaturvedi & Mr. Sumit  
Kumar, Advs.

versus

THE STATE NCT OF DELHI .....Respondent

Through: Mr. Ajay Vikram Singh,  
APP for the State  
SI Arvind Kumar, PS-  
Mandir Marg

**CORAM:**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**ORDER**

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**24.10.2024**

**CRL.M.A. 21453/2024 in BAIL APPLN. 2581/2024**

1. Exemptions allowed, subject to all just exceptions.



2. The application stands disposed of.

**BAIL APPLN. 1498/2024 & CRL.M.A. 23275/2024 in BAIL APPLN. 1498/2024 and BAIL APPLN. 2581/2024**

3. The present applications are filed seeking regular bail in FIR No. 146/2023 dated 14.10.2023, registered at Police Station Mandir Marg, for the offences under Sections 394/34 of the Indian Penal Code, 1860 ('IPC'). The chargesheet was filed under Sections 395/412/120B/34 of the IPC.

4. Briefly stated, the FIR in the present case was filed based on a complaint alleging that on 14.10.2023, while the complainant and his friend were traveling by motorcycle to Connaught Place to collect foreign currency, at around 2:00 PM, two individuals on a bike, accompanied by others, stopped them. A confrontation ensued, during which the complainant and his friend were assaulted. The accused persons also allegedly beat them and stole their bags containing money, documents, and bank cards before fleeing the scene.

5. During the investigation, the vehicles used by the accused persons were identified through electronic surveillance and CCTV footage. Seven individuals were found to be involved in the alleged offence and were apprehended by the police on 15.10.2023.

6. The learned counsel for the applicants submit that the applicants have been falsely implicated in the present case and have clean antecedents.

7. The learned counsel submit that there was no public witness at the time of the alleged incident as mentioned in the FIR, which evidently shows that the applicants have been falsely implicated by the police.



8. They submit that the investigation in the present case is complete. The chargesheet is filed and the trial is ongoing and no purpose would be served by keeping the applicants in custody.

9. The learned Additional Public Prosecutor (**APP**) for the State, vehemently opposes the grant of bail to the applicant and submits that the nature of the alleged offence is serious in nature.

10. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

11. In the present case, the allegations against the applicants are that they physically assaulted the complainant and his associate, and robbed them of their belongings by snatching their bags. It has been stated that the bags, along with the items in question, have been recovered and seized by the police. Notably, although the alleged incident occurred in broad daylight in a public area, no independent public witnesses have been cited.

12. The allegation against the applicant is sought to be corroborated by the alleged CCTV footage. It is claimed that the applicants were seen sitting on a motorcycle while the bag of the complainant was seen on the shoulder of one of the applicants.

13. It is the case of the prosecution that the bag of the complainant was recovered on a disclosure statement of one of the applicants which is the same as was seen in the CCTV footage, being carried by the applicant.



14. It is pointed out that the recovery was made on an alleged disclosure without involving any independent witness. It is the case of the applicant that the said bag was planted and was, in fact, not the same bag as was carried by the applicant as visible in the CCTV footage.

15. It is also not denied that there is no CCTV footage showing the snatching of the bag from the complainant. The allegation is that one of the applicants was seen carrying a bag on his shoulder which is claimed to be belonging to the complainant. The applicants also have denied their presence at the time of incident.

16. Thus, whether the applicants were present at the scene of crime and had committed the crime or whether the bag which was allegedly seen on the shoulder of the applicant in the CCTV footage was the same bag as recovered on a disclosure statement of the applicant, would be tested during the course of trial and cannot be presumed with certainty at this stage.

17. Additionally, the applicants are stated to have clean antecedents, and they are young men aged 21 and 27 years, respectively, who have been in custody since 15.10.2023. Substantial period of time has been spent by the applicants in custody. Since the chargesheet in the present case has been filed, the custody may itself result in the denial of his fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India, when the trial is not likely to conclude in near future.

18. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. However, appropriate conditions ought to be put to allay the



apprehension of the applicant tampering with the evidence or evading the trial.

19. The Hon'ble Apex Court in the case of ***Union of India v. K.A. Najeeb*** : AIR 2021 SC 712, has held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

20. Considering the aforesaid discussion, in the interest of upholding the principles enshrined under Article 21 of the Constitution of India, this Court is of the opinion that the applicant has established a prima facie case for the grant of bail.

21. In view of the above, the applicants are directed to be released on bail on furnishing a personal bond for a sum of ₹25,000/- each with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicants shall under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicants shall appear before the learned Trial Court as and when directed;
- d. The applicants shall provide the address where he shall reside upon his release, and shall not change the address without informing the concerned IO/ SHO;
- e. The applicants shall, upon his release, give his



mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

22. In the event of there being any FIR/ DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

23. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the Trial and also not be taken as an expression of opinion on the merits of the case.

24. The bail application is allowed in the aforementioned terms.

25. A copy of this order be placed in both the matters.

**AMIT MAHAJAN, J**

**OCTOBER 24, 2024**