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

+ **CRL.M.C. 1809/2021**

MD ISLAM

.....Petitioner

Through: **Mr Medhanshu Tripathi, Adv.**

versus

STATE AND ORS

.....Respondents

Through: **Mr Aashneet Singh, APP for State**
SI Lokendra Singh, PS-Malviya
Nagar, South District.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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12.11.2024

1. This is a petition filed under section 439(2) of Code of Criminal Procedure, 1973 seeking cancellation of regular bail granted to respondent No. 2 *vide* order dated 08.07.2021 passed by the learned Sessions Judge, Saket Court, New Delhi in FIR No. 319/2021 dated 19.05.2021, registered at PS Malviya Nagar under sections 307/34 IPC, 1860 and sections 27/54/59 Arms Act, 1959.

2. Mr Tripathi, learned counsel for the petitioner states that after respondent no.2 was granted bail on 08.07.2021, he (accused) has threatened the petitioner on 21.07.2021 and in this regard, he had also written a complaint to the S.H.O, Malviya Nagar, Delhi on the same date.

3. I am of the view that the order dated 08.07.2021 passed by the learned Sessions Judge granting bail to respondent No. 2 is well reasoned and sound in law. The learned Sessions Court in the impugned order *inter alia* held as under:



“It is the matter of fact that applicant was not found present at the spot. His role is depicted as of the conspirator, but no concrete evidence has been placed on record. It is only the fact disclosed by the co-accused that Rashid had given an amount of Rs. 1 lakh to Rahimuddin by using Imran Car. No electronic evidence have been collected so far to buttress the above said fact.

Considering the above facts coupled with the fact that investigation qua the applicant have been completed, applicant is ordered to be admitted on bail subject to furnishing the personal bond of Rs. 50,000/- along with two surety of a like amount to the satisfaction of Ld. MM/ Link MM/ Duty MM subject to following conditions:-

- (1) The accused/ applicant shall attend the Court in accordance with the conditions of the bond executed.*
- (2) The accused/ applicant shall not temper with the evidence or induce, threaten, coerce or influence the witnesses, including complainant, and*
- (3) The accused shall not commit any offence similar to the offence of which he is accused of.*
- (4) After releasing from Jail, accused shall comply social distancing norms and keep his face covered from mask or handkerchief.”*

4. To my mind, the fact that the complaint made to the S.H.O, Malviya Nagar, Delhi on 21.07.2021 against respondent No.2 does not advance the case of the petitioner as the same could be based out of animosity and vindictiveness as the petitioner and respondent no.2 have registered FIRs against each other.



5. The aforesaid fact can be borne out from the status report made in July, 2024 which has been handed over in court today. The operative portion of the status report reads as under:

“That, after accused person’s release on bail, two criminal cases have been registered by both the parties against each other, wherein a case vide FIR No. 199/23, Dt. 16.05.2023, u/s 323/341/506/34 IPC was registered on the complaint of Samshuddin S/o Haji Jabruddin R/o H. No. 58A, Kalu Sarai, Malviya Nagar, ND (Father of petitioner) against the family members of accused persons (uncle of accused person), while a case vide FIR No. 200/23, Dt. 16.05.2023, u/s 323/325/341/506/34 IPC was registered on the complaint of Hanif S/o Haji Jabruddin R/o H. No. 58A, Kalu Sarai, Malviya Nagar, ND (Uncle of accused Imran) against the petitioner and his family members. Chargesheet of both the cases have been filed before the concerned court. Preventive actions u/s 107/150 CrPC have been taken against both the parties vide DD No. 116A, Dt. 01/03/2022 PS Malviya Nagar & DD No. 64A, Dt. 19.06.2024 PS Malviya Nagar.”

6. The fact that the petitioner as well as respondent No.2 are registering FIRs against each other goes to show that the same can be and may be based out of animosity and vindictiveness. In addition, the petitioner and respondent no. 2 are cousin brothers. The status report also denotes that the accused namely, Rashid has already shifted from his earlier premises to a new premises being H. No. 1042, Ward No. 08, Balaji Apartment, Near Mehta Chowk, Mehrauli.

7. Hence, it is clear that the accused/respondent no. 2 is no longer residing in the vicinity of the petitioner. For the said reasons, I am not



inclined to interfere in the order dated 08.07.2021 granting bail to respondent no.2 and the present petition is therefore rejected.

8. The status report handed over in Court today is taken on record.

NOVEMBER 12, 2024/sr **JASMEET SINGH, J**
Click here to check corrigendum, if any