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

+ **BAIL APPLN. 2399/2023**

MOHD.CHAND

..... Petitioner

Through: **Mr.Faiz Imam, Adv.**

versus

STATE OF N.C.T. OF DELHI

..... Respondent

Through: **Ms.Priyanka Dalal, APP.**

**SI Pardeep Malik, PS Lajpat
Nagar**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

07.02.2024

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1. This application has been filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') praying for the applicant to be released on Regular Bail in FIR No.0231/2019 registered at Police Station: Lajpat Nagar, South-East District, Delhi under Sections 392/397/34 of the Indian Penal Code, 1860 (in short, 'IPC').

2. In short, it is the case of the prosecution that on 08.07.2019, at about 4:00 AM, the complainant was returning back from a wedding from Aerocity (Andaz Hotel) in his vehicle, that is, a Hyundai Creta car. As soon as he got down from his car after reaching in front of his house, and was taking his bag from the back seat of the car, a boy, aged around 24-25 years wearing a mask, came near him and showed him a pistol. Three other boys of the same age group joined him. One



of them was also carrying a pistol. They all robbed the complainant of Rs.1500-2000 and two I-phone mobiles, on gun point. On 09.07.2019, an information was received from the Anti Snatching Robbery Cell, North-East District that the co-accused Safan @ Affan and the applicant had been arrested in a case FIR No.213/2019 registered with Police Station: Jyoti Nagar, Delhi, and they had disclosed about their involvement in the subject offence. Another Co-accused, namely Burhan, was also arrested on 27.07.2019, and he has also disclosed about his involvement in the alleged offence. The applicant was formally arrested in relation to the present FIR on 11.08.2019. His Test Identification Parade (TIP) was conducted on 11.09.2019, wherein the victim has correctly identified the applicant to be involved in the crime. A supplementary charge-sheet in the case was filed on 01.02.2022, bringing on record the FSL report with respect to the CCTV footage covering the incident.

3. It is further alleged by the prosecution that the petitioner is involved in eight other cases, details whereof are given in the Status Report.

4. The learned counsel for the applicant submits that the applicant has been in custody since 08.07.2019, when he was arrested in relation to the other FIR mentioned hereinabove. He further submits that the charge-sheet was filed by the prosecution on 04.10.2019; and the supplementary charge-sheet was filed on 31.01.2022. Till date, only around 12 out of the 30 witnesses have been examined by the prosecution. He submits that the main witness, that is, the complainant already stands examined. Therefore, there is no chance of the



applicant tampering with the evidence. He submits that co-accused, namely Burhan, has already been granted bail by the learned Trial Court.

5. On the other hand, the learned APP submits that there are grave charges against the applicant of having committed robbery at gun point. She submits that the applicant has also been involved in other cases of similar nature, details whereof have been given in the Status Report. She submits that the incident is also covered in the CCTV footage that has been obtained by the prosecution during the investigation.

6. I have considered the submissions made by the learned counsels for the parties.

7. As reflected in the Nominal Roll of the applicant, the applicant has been in custody for more than four years and four months. Though there are other cases also reported against the petitioner, his conduct in jail is reported to be satisfactory. The victim already stands examined and it is stated that only formal witnesses are remaining to be examined. The trial has been pending for the last two years.

8. It is also contended by the learned counsel for the petitioner that as the accused persons were stated to be wearing masks, therefore, the identity of the applicant in the alleged offence cannot be corroborated by the TIP. No recovery is also stated to have been made from the applicant.

9. Keeping in view the above circumstances, the applicant Mohd. Chand is directed to be released on regular bail in FIR No.0231/2019 registered at Police Station: Lajpat Nagar, South-East District, Delhi



under Sections 392/397/34 of the IPC, on furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount, subject to the satisfaction of the Ld. Trial Court, and further subject to the following conditions:

- i. The Applicant will not leave the country without the prior permission of the learned Trial Court.
- ii. The Applicant shall provide his permanent address to the learned Trial Court. The applicant shall also intimate the Court, by way of an affidavit, and to the IO regarding any change in his residential address.
- iii. The Applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The Applicant shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant in a working condition at all times and shall not be switched off or changed by him without prior intimation to the Ld. Trial Court and the IO concerned. The mobile location be kept on at all times.
- v. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact, directly or indirectly, with any of the prosecution witnesses.

10. Needless to state, any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on the merits of the matter.

11. The bail application is disposed of in the above terms.



12. A copy of this order be sent to the Jail Superintendent for information and necessary compliance.

13. *Dasti.*

NAVIN CHAWLA, J

FEBRUARY 7, 2024/rv/ss

Click here to check corrigendum, if any