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

+ **BAIL APPLN. 1851/2024**

BACHAN VIR

.....Petitioner

Through: Mr. Mihilal Chaudhary, Advocate
through VC.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Richa Dhawan, APP for State
with S.I./I.O. Satender Kr. Arya, PS
Geeta Colony, Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

05.09.2024

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1. The present Petition under Section 439 of the Code of Criminal Procedure, 1973 has been filed on behalf of the petitioner seeking grant of bail in FIR No. 606/2022 registered under Sections 395/397/412/120B of the Indian Penal Code, 1860 *hereinafter referred to as "IPC, 1860"*) and Section 25 of the Arms Act at Police Station Geeta Colony, Delhi.
2. It is submitted in the petition that the petitioner was arrested in the present case on 12.12.2022 and nothing incriminating has been recovered from his possession, except one OPPO mobile phone but it is not the looted property. The said mobile phone is an old gift given to him by his sister and he has been using it since much prior to the alleged incident.
3. It is further submitted that the investigations are already complete and the Chargesheet stands filed before the learned Trial Court. There are 25 prosecution witnesses and the trial would take a long time to get concluded.
4. It is also submitted that the name of the petitioner has been added on



the basis of disclosure statement of the co-accused persons and there is no linking evidence against the petitioner.

5. According to the complainant, the persons who committed the dacoity were aged about 35 to 40 years while the petitioner is only 22 years old. He has studied upto 12th class and has also participated in the sports i.e., athletic activity and he has always been a good position holder in all the activities.

6. The father of the petitioner is a senior citizen, aged about 65 years and has 45% disability and is not able to work. There are only three members in the family of the petitioner, including the father and there is no other person in the family to take care of aged parents.

7. It is also submitted that the petitioner undertakes not to tamper the evidence or intimidate the witnesses and he shall abide by any terms that may be imposed while granting the bail.

8. Therefore, it is submitted that the bail may be granted in the present FIR.

9. **The Status Report** has been filed on behalf of the State, wherein it is submitted that on 01.12.2022, the complainant-Vikas Mehra after closing his shop at Chandni Chowk, Delhi, took around 900 gms gold jewellery in a black laptop bag which he kept under the driver's side seat of his car and left for his house. While the complainant-Vikash Mehra was crossing the Yamuna Bridge at the corner of Geeta Colony bridge, he was stopped by two men on one motorcycle and then were joined by other two men who also were on a motorcycle. They broke the window of car and on gun point robbed the complainant and fled away with the gold jewellery and other articles.

10. On the complaint of complainant, an FIR No. 606/2022 was



registered under Sections 392/397/34 of the IPC, 1860 and the petitioner was arrested on 12.12.2023. Allegedly one mobile phone has been recovered from his possession. The petitioner has been identified by the complainant he was produced in the Court.

11. It is submitted that allegation is that the petitioner was one of the accused persons who had smashed the window of the car for stealing gold jewellery and other articles, but there were other persons, namely, Dinesh, Rajesh, Faisal, Pramod, Vijay Yadav, Arun and Faisal @ Salman with whom the petitioner committed the dacoity.

12. It is further submitted that the accused persons, namely, Dinesh, Rajesh and Faisal against whom the charges were under Sections 412/120B of IPC, 1860, have been granted bail.

13. However, the petitioner herein has a different role as he was involved in the actual dacoity and the Charges under Sections 395/397 were found to have been made out in the Chargesheet, against him.

14. Learned Additional Public Prosecutor on behalf of the State submits that there can be no parity claimed because the three accused persons, i.e., Rajesh, Dinesh and Faisal @ Salman who have been granted bail, had the allegations only for the offences punishable under Section 412 read with Section 34 of IPC, 1860. Their roles are absolutely different. She further submits that the CDRs of mobile of the petitioner have been collected which show the presence of the petitioner on the scene of crime.

15. She further submits that considering the severity and the gravity of the allegations made against the petitioner, the present bail is opposed.

16. **Submissions heard.**

17. Essentially, the allegations made against the petitioner are that he was



one of the six accused persons who had committed the active dacoity and participated in an active role of breaking the window of the car for stealing the gold jewellery and other articles, on a gun point. However, no recovery of weapon has been effected from the petitioner, except one OPPO mobile phone, which the petitioner claims to be a gift given by her sister and was using the same much prior to the alleged incident. However has been identified by the complainant as one of the accused persons who was involved in the alleged incident of dacoity.

18. Though the Chargesheet in the present FIR stands filed before the learned Trial Court, but the Charges against the petitioner are yet to be framed. Thereafter, the evidence of the complainant-Vikas Mehra is to be recorded.

19. Considering the gravity of the offence committed by the petitioner and also the CDRs of the petitioner which show that the petitioner was present on the scene of crime and also that the Charges against him, are yet to be framed, there is no ground made out for grant of bail to the petitioner in the present FIR.

20. Accordingly, the present petition is dismissed in the above terms.

NEENA BANSAL KRISHNA, J

SEPTEMBER 5, 2024
S.Sharma