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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1919/2024**

JUBER @ MOHD ZUBAIR

.....Petitioner

Through: Mr. Ashok Kumar Sharma, Sr.
Advocate with Mr. Kshitij Mudgal,
Ms. Shama Firoz and Ms. Anshul
Rajora, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Aashneet Singh, APP for State
with SI Gaurav Singh, P.S. Kamla
Market.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

12.08.2024

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1. By way of the present bail application, the applicant seeks regular bail in FIR No. 182/2017 registered under Sections 395/397/120-B/412/34 IPC and 25/27 Arms Act at P.S. Kamla Market, Delhi.
2. Mr. Sharma, Id. Senior Counsel for the applicant contends that the applicant has been in custody since 03.08.2017 and insofar as the complainant is concerned, she stands examined and cross-examined on behalf of the present applicant. It is further contended that there is no other eye witness who is to be examined, inasmuch as, none of the robbed articles was recovered at the instance of the present applicant. Id. Senior Counsel, while referring to the cross-examination of the complainant/*Hazi Bela*, submits that the said witness had identified the applicant as she admitted that the applicant was shown to her in the police station. Id. Senior counsel



seeks parity with the co-accused *Bilal* who is statedly released on bail. He has also raised grievance that the trial is not proceeding as the complainant has not appeared before the Trial Court for the past few occasions. Lastly, it is submitted that the applicant was twice released on interim bail on HPC guidelines and he has not misused the concession.

3. Bail application is vehemently opposed by Mr. Singh, Id. APP for the State, who submits that the applicant's earlier bail application was permitted to be withdrawn by this Court vide order dated 01.02.2024. He submits that there is no change in circumstance thereafter. On the aspect of period of custody, Id. APP has invited attention of this Court to the orders dated 22.08.2023 and 20.09.2023 wherein it is noted that though the applicant was released on interim bail, NBWs came to be issued as he didn't surrender in time. It is further stated that co-accused/*Bilal* was released on regular bail considering his role as he never entered the house of the complainant. The offence of dacoity entails punishment for life.

4. I have heard the learned counsels for the parties and perused the records.

5. The present FIR relates to an incident of dacoity committed by the accused persons wherein about 50 *Tolah* gold and Rs.5 lacs cash were robbed. As per the prosecution case, it was the present applicant who had stuffed the mouth of the complainant with cloth. The conduct of the appellant in not surrendering in time also has to be taken into consideration. During the course of submissions, a copy of the proceedings before the Trial Court is also handed over, wherein it is noted that the delay is also on account of the co-accused/*Akshay* who has now been declared as Proclaimed Offender (PO).



6. In view of the aforesaid discussions, I find no ground to admit the applicant on bail consequently, the present bail application is dismissed.

7. Needless to state that the observations made hereinabove are only for the purpose of disposal of present bail application and which shall not have a bearing on the trial of the case.

8. Trial Court shall also take all the appropriate steps to ensure that the declaration of co-accused as PO does not come in the way of conclusion of trial against the accused persons who are in jail.

MANOJ KUMAR OHRI, J

AUGUST 12, 2024

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