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

+ **BAIL APPLN. 2192/2024**

MOHD HASAN ALIAS GOLU

.....Petitioner

Through: Mr. Nagendra Singh & Mr. Sanchit
Sehgal, Advs.

versus

THE STATE OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for State with
SI Jitender Kumar, PS Anand Parbat.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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08.10.2024

1. This petition has been filed seeking regular bail in FIR No. 199/ 2018 under Sections 397/506/34 IPC, registered at PS Anand Parbat. APP for State has handed up the Status Report. APP shall ensure that the same be taken on record.
2. As per the case of the prosecution, the FIR was registered on a complaint of one Vijay Kumar alleging that when he was going along with his uncle, Jaswant and Shiv Dayal were coming to his home from Haridwar on 16th July 2018 at about 10.33 P.M, they reached under Zakhira Flyover Nehru Nagar and four unknown persons surrounded them and robbed mobile, purse and gold neck chain of Jaswant. When Jaswant resisted, one of them stabbed him with a *knife* and ran away from the spot.
3. During the investigation, on basis of secret information, the petitioner



was arrested on his disclosure, other two accused being Mohd. Haider, Mohd. Noor Hassan and Pintu were also arrested.

4. The case of the prosecution is that the weapon of offence, *knife* was recovered at the instance of the petitioner. The nature of injuries in the MLC was defined as grievous. The charge sheet has since been filed and the Trial is proceeding ahead. The material witnesses have been examined.

5. The petitioner was in custody from 17th July, 2018. He was subsequently released on interim bail on 10th January 2021. Thereafter, petitioner was re-arrested in another FIR No. 791/2021 under Sections 392/34 IPC registered at PS Moti Nagar.

6. Counsel for petitioner points that he met with a train accident due to which his right leg was amputated from ankle level. Disability certificate is on record dated 08th December, 2022 issued by the Ministry of Social Justice and Empowerment, Government of India, noting that petitioner has 55 % permanent disability as per guidelines.

7. Counsel for petitioner further points out to the depositions of PW-4, PW-7 and PW-8 (*Vijay, Jaswant and Shiv Dayal* respectively); all three have identified the petitioner but failed to identify *knife* which was produced by the prosecution has having been seized at the behest of the petitioner.

8. It is further contended that as per the decision of Supreme Court in ***Prem Prakash v Union of India*** (2024) INSC 637 and ***Prabhakar Tewari v State of U.P.*** (2020) 11 SCC 648, other criminal antecedents cannot be reason to deny the bail.

9. Counsel for petitioner further contends that no recovery of mobile phone was made from the petitioner which precludes the implications of Section 397 IPC.



10. APP for State has, however, objected to the grant of bail on the basis that there are previous involvements and each time he has been granted bail he has been found as being implicated in other FIRs.

11. As regards the tabulation of the previous involvements filed as part of the Status Report, it bears out that in the five other involvements, he has been granted bail in each of these matters.

12. Post the amputation in 2022, the petitioner was implicated in FIR no. 897/2023 under Sections 308/325/341/34 IPC and Section 25/27/54/59 of Arms Act. However, the said FIR was a cross FIR along with FIR 898/2023 at PS Sarai Rohilla and the matter had been settled between the parties.

13. In these circumstances, considering the medical condition of the petitioner, his Locomotor Disability, the fact that material witnesses have been examined, and there are certain aspects which have been pointed out by the petitioner which may potentially be determinative post the trial regarding the guilt of the accused, this Court is of the opinion that the petitioner is entitled to bail.

14. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail 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 Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court.



The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.

- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
 - iv. Petitioner shall join investigation as and when called by the IO concerned.
 - v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
 - vi. Petitioner will mark presence physically/virtually before the concerned I.O. every Thursday at 4 p.m., and will be not kept waiting for more than an hour.
 - vii. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.
15. Needless to state, but 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 merits of the matter.
16. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
17. *'Dasti'*
18. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.



19. Order be uploaded on the website of this Court.

ANISH DAYAL, J

OCTOBER 8, 2024/RK