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

+ **BAIL APPLN. 3240/2023**

SAPARSH AGGARWAL Applicant

Through: Mr. Yogesh Rathee, Adv.

versus

THE STATE NCT OF DELHI Respondent

Through: Mr. Pradeep Gahlot, APP
for the State with SI
Harender Kumar, PS
Lahori Gate.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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20.02.2024

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in e-FIR No. 65/2022 dated 17.02.2022 under Sections 392/397/482/120-B/411/34 of the Indian Penal Code, 1860 and Sections 25/27/54/59 of the Arms Act, registered at Police Station Lahori Gate.

2. The FIR was registered on a complaint given by complainant namely, Ketan Kumar Kantilal Oza alleging that a sum of ₹40 lakhs was robbed, from his employee namely Joshi Rohit Kumar, by the applicant and other accused persons. It was alleged that the robbery was committed on a gun point where one of the accused persons pointed a gun and the another accused took the bag and thereafter, they all ran away.

3. The role alleged to the present applicant is that he was the one, who pointed the gun, and a sum of ₹3 lakhs also has been recovered on his disclosure.

BAIL APPLN. 3240/2023

Page 1 of 4



4. The learned counsel for the applicant submits that all the co-accused persons have already been admitted on bail. He submits that two co-accused persons were granted bail by orders of coordinate benches of this Court dated 25.04.2023 and 16.08.2023 respectively and one co-accused was released on bail by an order passed by the learned Sessions Court dated 21.07.2022. He submits that co-accused Shivam Gaur was granted bail by this Court by order dated 16.08.2023, noting that all the accused persons have already been admitted on bail and the applicant in that case was held to be entitled for the order of bail on the ground of parity.

5. The learned Additional Public Prosecutor for the State submits that the co-accused Shivam Gaur was granted bail, since the Court was misled to believe that all the co-accused persons were released on bail. He submits that when the said order was passed, the present applicant was in custody. He submits that the State is in the process of filing of an application seeking cancellation of the bail granted to the co-accused Shivam Gaur.

6. The learned Additional Public Prosecutor for the State further submits that the role of the applicant is graver than the other co-accused persons.

7. It is not denied that, at this stage, all the co-accused persons except the applicant, have been admitted on bail. The allegations against all the co-accused persons are that they together committed the act of robbery. A sum of ₹23 lakhs was allegedly recovered at the instance of co-accused Bobby Verma, who has also been granted bail.

8. It is also not denied that the accused is in incarceration since 11.03.2022. The chargesheet has already been filed and the trial is likely to take substantial amount of time.

BAIL APPLN. 3240/2023

Page 2 of 4



9. Recovery of the pistol allegedly used during the commission of crime was not made at the instance of applicant. The same was recovered at the instance of co-accused Krishan Kumar. The said co-accused Krishan Kumar has already been released on bail by the order passed by the learned Additional Sessions Judge. The said order has not been challenged by the State.

10. In view of the above, this Court is of the opinion that no purpose would be served by keeping the applicant in further incarceration.

11. The applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹30,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court / Duty MM / Link MM, on the following conditions:

- a. He shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. He shall appear before the learned Trial Court on every date of hearing;
- c. He shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/SHO;
- d. He shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.



12. In the event of there being any FIR/ DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

13. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the Trial and also not be taken as an expression of opinion on the merits of the case.

14. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

FEBRUARY 20, 2024
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