



\$~52

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

+ **BAIL APPLN. 3393/2023**

AJAY KUMAR VERMA

..... Petitioner

Through: Mr. Tarunesh Kumar, Mr. Kaushikesh
Kumar and Mr. Rajesh Tiwari, Advocates.

versus

STATE GOVT. NCT OF DELHI

..... Respondent

Through: Ms. Shubhi Gupta, APP for State with
SI Prince Kumar, PS Hauz Khas.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER
24.01.2024

%

1. This application has been filed under Section 439 Cr.P.C. seeking regular bail by the Applicant, namely, Ajay Kumar Verma S/o Sh. Rajender Prasad in FIR No. 176/2023 dated 10.05.2023 under Sections 392/398/34 IPC and Section 25/27 Arms Act, 1959 registered at PS: Hauz Khas.
2. As per the case of the prosecution, an information PCR call was received at PS: Hauz Khas at 4:37 p.m., vide DD No.77A dated 10.05.2023 and when the staff reached the spot, i.e. Outer Ring Road, Panchsheel Park, towards IIT red light, the victim/Complainant, namely Ram Janam Safi was present with his colleague Shaker. He stated that he is working as a salesman at Sanvi Diamonds, Building No. 2633/34, Upper Ground Floor Bank Street, Karol Bagh, New Delhi-110005. At about 1:00 p.m. on 10.05.2023, he alongwith his colleague left the shop with 181 items of



jewellery for selling them at various jewellery shops at Kalkaji market. However, none of the shops bought the jewellery that they were carrying and they finally left for showing the items at Malik Jewellers. When they reached the Outer Ring Road, they stopped at the roadside to drink water and suddenly, two men came on a scooty and caught them. One of them took out a pistol out of his pocket and pointed at the head of Shaker while the other took out a spray bottle and tried to spray over the Complainant. After that, both started demanding the jewellery bag and threatened to fire. In the meantime, the Complainant escaped and both persons snatched the bag from the hand of Shaker and ran towards IIT red light on the scooty. Hence, the present FIR was registered.

3. It is further stated in the status report that the crime spot was inspected by the Crime Team and a live cartridge was found from the spot. Efforts were made to work on the CCTV footages and possible CDRs. Team of AATS/SD traced the scooty used in committing the crime. Raid was conducted in Noor Sarai on 13.05.2023 and accused Pinku Kumar was found there, whose sustained interrogation led to recovery of a necklace from his house and the arrest of co-accused Rahul from Bihar Sharif. During the course of investigation, it came to light that a conspiracy was hatched between seven people including the Applicant, all local residents of Bihar Sharif. Present Applicant has been working in Karol Bagh at Goldsmith shops for the last 14 years. All co-accused sat together in Bihar Sharif and planned to rob the gold and diamond salesman at Karol Bagh. It was planned that Applicant would give tips about the movement of the salesman and Ranjan will give information about the topography of Karol Bagh while Pinku and Rahul will execute the robbery and Rintu, Rajesh and



Abhishek will dispose the looted jewellery in the market. Rintu provided the pistol and Rajesh provided Rs.50,000/- to execute the plan. As far as the role of the Applicant is concerned, it is stated in the report that he was the one who provided internal information to his associates and was an active participant in the conspiracy. Upon his arrest, 12 items of gold and diamond jewellery were recovered from his rented accommodation. Perusal of CDRs of the accused persons revealed that Applicant made 108 phone calls to the main accused Rahul since 28.02.2023 and was continuously providing internal information. It is further stated that investigation is complete and charge sheet has been filed. It is candidly admitted by the learned APP that in the charge sheet, the offences alleged to be committed by the Applicant are under Sections 411/120B/34 IPC.

4. Learned counsel for the Applicant submits that Applicant has been falsely implicated. Applicant is working in jewellery shops for 15-16 years in Karol Bagh including the present shop where he has been working since 2022 and there has not been a single complaint against him as Applicant is a man of impeccable integrity. As per the protocol followed at the jewellery shops, Applicant used to deposit his phone at the workplace and there was no possibility of his contacting or giving information/tip to anyone, as alleged. The shop, of which the articles are alleged to have been looted, is at a distance of about 25-26 shops from the shop where the Applicant was working and there was no way, by which the Applicant would have known as to which salesman in the said shop was carrying jewellery and at what time for sale to other jewellery shops. No recovery has been made from the Applicant and the stand of the prosecution in this regard is totally false. There is no public witness to the recovery. While in the charge sheet, it is



shown that the police witnesses to the recovery are Const. Bajrang and HC Rakesh Kumar, however, recovery/seizure memo bears the signature of Const. Shravan, who was admittedly not even part of the team. This clearly implies that the seizure memo was prepared later at the police station and the allegedly recovered articles were planted. Investigation is complete and charge sheet has been filed and Applicant is alleged to have committed offences under Sections 411/120B/34 IPC and there is no allegation of robbery and/or under the Arms Act. In the investigation conducted so far, nothing has been brought out which connects the Applicant to the Complainant and his associate so as to reach even a tentative conclusion that the Applicant gave information of their movement to the co-accused. CCTV footage also does not indicate the movement of the Applicant in and around the shop from where the allegedly looted jewellery was taken. Merely because the Applicant was speaking to the co-accused Rahul and CDRs showed 108 calls, is of no consequence since the Applicant knows the co-accused from years as both belong to the same District.

5. It is further argued that in *Sanjay Chandra v. Central Bureau of Investigation, (2012) 1 SCC 40*, the Supreme Court has held that the object of bail is to secure the appearance of the accused person at his trial and is not punitive or preventive. Applicant has clean antecedents and deep roots in the society. He is the only bread earner of his family and there is no chance of his absconding or tampering with evidence and is willing to subject himself to any condition that this Court may impose for granting bail.

6. Learned APP for the State draws the attention of this Court to the status report and submits that the investigation reveals an active role of the Applicant in the conspiracy to rob the Complainant, as he was the one who



provided the information of movement of the Complainant with his associate from the jewellery shop at Karol Bagh. At the instance of the Applicant, 12 gold and diamond jewellery articles have been recovered from his rented accommodation and CDRs revealed that he had made 108 calls to the main accused Rahul since 28.02.2023 and was providing internal information.

7. I have heard learned counsel for the Applicant and learned APP for the State. Indisputably, investigation is complete *qua* the Applicant and charge sheet has been filed, wherein allegations against the Applicant pertained to commission of offences under Sections 411/120B/34 IPC. Applicant has been in judicial custody since 25.05.2023 and it would take a long time to conclude the trial. There are no criminal antecedents of the Applicant, despite his having worked at jewellery shops for over a decade. Applicant has pointed out flaws in the seizure memo to make out a case of false implication and the alleged recovery of 12 articles of jewellery from him besides urging that no public witness was associated with the recovery. Even as per the prosecution case, the CCTV footage around the jewellery shops did not indicate that the Applicant was seen around the shop from where the jewellery was taken by the Complainant. Applicant also states that as per the protocol maintained at the jewellery shops, he had to deposit the mobile phone on duty hours and there was no possibility of his contacting with anybody to give any information. At this stage, the mere fact that Applicant made 108 calls to the main accused, cannot be a ground to continue the incarceration of the Applicant. Admittedly, Rahul is the main accused and mastermind of the alleged robbery and no role has been ascribed to the Applicant for this offence and/or under the Arms Act.



Therefore, without commenting on the merits of the case and keeping in view the totality of the facts and circumstances as also considering the fact that Applicant has been in custody since 25.05.2023, as per the Nominal Roll, I am of the view that the Applicant has made out a case for grant of regular bail. It is, therefore, directed that Applicant be released on regular bail, on his furnishing a personal bond in the sum of Rs.25,000/- with two sureties of the like amount to the satisfaction of the learned Trial Court and further subject to the following conditions:-

- i. Applicant will not leave the country without prior permission of the Trial Court and would surrender his passport, if any;
 - ii. He shall provide his permanent address to the concerned IO and shall intimate the IO as well as the Trial Court by filing an affidavit regarding any change in the residential address;
 - iii. He shall provide his mobile number to the IO concerned and shall keep the mobile in working condition at all times and the number shall not be changed without prior intimation to the IO and the Trial Court;
 - iv. He shall not indulge in any criminal activity or communicate with or come in contact with the witnesses and/or any other person associated with the present case;
 - v. He shall report to concerned IO once in a month; and
 - vi. He shall appear on each and every date of hearing before the Trial Court unless exemption is sought and granted by the Court on any given date.
8. It is made clear that the observations made in this order are only for the purpose of deciding this application and this Court has not expressed any



opinion on the merits of the case.

9. Application stands disposed of.

10. Copy of the order be sent to the concerned Jail Superintendent for information and compliance.

JYOTI SINGH, J

JANUARY 24, 2024/pa