



\$~7

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

+ **BAIL APPLN. 3634/2023**

SALMAN URF GURU

..... Petitioner

Through: Mr. Anuj Ramjan, Mr. Ankit Kumar
and Ms. Neha Kumar, Advocates.

versus

THE STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State.
Insp. Satbir Singh, PS Subzi Mandi.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

%

26.02.2024

1. The present application under Section 439 read with Section 482 of the CrPC seeks regular bail in case FIR No. 329/2017, under Sections 392/394/397/120B/34 of the IPC, registered at P.S. Subzi Mandi.
2. The case of the prosecution as per the status report dated 20.01.2024 authored by SHO P.S. Subzi Mandi, is as under:-

“1. That, on 16.12.17, a PCR Call was received regarding snatching of scooty by 2-3 boys near Mahipal Dairy, Palace Cinema, Roshanara Road, Delhi. On reaching the spot, 10 found that the injured had been taken to Hindu Rao Hospital. The statement of Complainant Shri Rakesh Kumar S/o Lt. Nayadermal Jain R/o 8670, 1st Floor, Bhargav Gali, Roshanara road, Delhi was recorded. The complainant stated that on 16.12.2017, at around 08:10PM, while he was coming home on scooty and entered Bhargav Gali, two persons stopped him and the other two persons, who were on their scooty who stopped beside him. The Said boys assaulted him and robbed his scooty in which he had kept Rs.* 3,50,000 in the dickey. In this regard FIR was registered and investigation was carried out.

2. That, during investigation, accused Salman @ Bhuri and the petitioner were arrested in FIR 24/18, U/s 25/54/59 Arms Act and FIR No. 23/18 U/s 356/379/34 IPC of PS Hauz Qazi respectively, who disclosed about



in the one PS Subzi Mandi. The accused were arrested in the case and their TIP their TIPs were conducted and the petitioner and co-accused both were identified by the eye witness and both the accused persons disclosed about the involvement of their other accomplices namely Salman @ Saddam, Wasim and Islam. Their police remand was obtained and the vehicle used in the offence was seized from the accused Salman @ Bhuri. The accused Salman @ Saddam was running in JC in case FIR No. 27/18. U/s 392/411/34 IPC, PS Subzi Mandi, Delhi. The accused Salman @ Saddam was also produced before the M.M Court on production warrant. The IO had applied for PC of the accused Salman @ Saddam for the recovery of weapon of offence but the Court was pleased to dismiss the application. The proclamation U/s 82 Cr.PC was issued against the accused Wasim who surrendered before the Court. He was arrested and his TIP was conducted in which the eyewitness identified him correctly.

3. That, The case is pending trial against the petitioner and the co-accused persons Salman @ Blurt, Salman @ Guru, Salman Saddam and Wasim Mirza.”

3. Learned counsel for the applicant submits that the latter has been in custody in 23.02.2018. It is pointed out that all co-accused persons have been granted bail. Attention of this Court is drawn to order dated 25.05.2021 passed by a learned Single Judge of this Court in BAIL APPLN. 1126/2021, whereby co-accused Salman @ Bhuri has been granted bail. It is submitted that the complainant in the present FIR has since passed away. It is also pointed out that one public witness, namely, Neha Gupta, examined as PW-3, did not identify the present applicant before the learned Trial Court. The other public witness, namely, Rahul, has not appeared before the learned Trial Court till date.

4. *Per contra*, learned APP for the State, on instructions of the Investigating Officer, submits that the applicant was identified in TIP proceedings and the CCTV footage pertaining to the incident also shows his involvement in the offence. It is further pointed out that the applicant has



other involvements as well.

5. Heard learned counsel for the parties and perused the record.

6. It is a matter of record that the other co-accused persons have been granted bail. Nominal roll dated 19.01.2021 reflects that the applicant has been in judicial custody since 23.02.2018 and as on 19.01.2024, he has already undergone custody for 05 years 10 months and 27 days.

7. In totality of the facts and circumstances of the case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 25,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
 - ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
 - iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
 - iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
 - v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
8. The application is allowed and disposed of accordingly.
9. Pending application, if any, also stand disposed of.
10. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.



11. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
12. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

FEBRUARY 26, 2024/sn