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

+ BAIL APPLN. 3702/2023
DEEPAK KUMAR

..... Petitioner

Through: Mr. Arup Banerjee and Mr. Prakash
Sharma, Advocates.

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Ms. Meenakshi Dahiya, APP with
Mr. Chaaitanya Jain and Mr. Bhanu
Pratap Singh, Advocates with ACP
Rohitash Kumar - ER-1, Insp.
Santosh Kumar, PS: Kashmiri Gate
and SI Habib Khan, ER-1 Crime.

+ BAIL APPLN. 4009/2023
VIJAY BHAN PANDEY

..... Petitioner

Through: Appearance not given.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Meenakshi Dahiya, APP with
Mr. Chaaitanya Jain and Mr. Bhanu
Pratap Singh, Advocates with ACP
Rohitash Kumar - ER-1, Insp.
Santosh Kumar, PS: Kashmiri Gate
and SI Habib Khan, ER-1 Crime.

+ BAIL APPLN. 4253/2023
RAJU SHAH

..... Petitioner

Through: Mr. Arun Kumar Sharma, Mr. Ankit
Aggarwal, Mr. Tarun Kaushik and
Mr. Anubhav Dixit, Advocates.

versus

STATE THROUGH SHO PS CRIME BRANCH Respondent

Through: Ms. Meenakshi Dahiya, APP with
Mr. Chaaitanya Jain and Mr. Bhanu
Pratap Singh, Advocates with ACP
Rohitash Kumar - ER-1, Insp.



Santosh Kumar, PS: Kashmiri Gate
and SI Habib Khan, ER-1 Crime.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

10.04.2024

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1. Three separate applications under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') have been preferred on behalf of the petitioners Deepak Kumar (BAIL APPLN. 3702/2023), Vijay Bhan Pandey (BAIL APPLN.4009/2023) and Raju Shah (BAIL APPLN.4253/2023), respectively for grant of regular bail in FIR No. 0125/2021 under Section 392/397/342/411/120B/34 IPC and Sections 25/27 Arms Act registered at P.S. Crime Branch.

2. In brief, as per the case of prosecution, complainant alleged that he is working in Riyadh, Saudi Arabia and took a flight on 09.07.2021 to return home along with four co-travelers. On the intervening night of 09/10.07.2021 about 01:00 AM, they proceeded from IGI Airport to New Delhi Railway Station. About 02:00 AM, they met accused Anil Verma, who informed that they would require COVID-19 test reports for travelling by train, as the test report provided by the Airport would be inadmissible. Complainant along with co-travelers were taken to an Office at Paharganj by accused Anil Verma, where they were informed that they can collect their COVID-19 test reports at 11: 30 AM on the next morning from the Office. Further, coordination was made for their stay at hotel.

3. In the morning about 11:30 AM, when the complainant reached the designated office along with co-passengers to collect the aforesaid COVID-19 test reports, six accused were already present there. Accused



Vijay Bhan Pandey armed with countrymade pistol, Deepak Kumar with a knife along with other four accused assaulted and robbed them of cash and other valuables. Thereafter, the complainant along with co-travellers were taken to train just 10 minutes prior to departure and one of the porters/coolie namely, Firoz Khan (co-accused) was engaged for said purpose.

4. While complainant along with co-travelers were boarding the train, the Police party was able to contact the complainant and other co-travelers, who informed them of the alleged incident. Thereupon, the raiding party immediately visited the office of accused, wherein four accused namely Vijay Bhan Pandey, Deepak Kumar, Sanjeev Kumar and Harish Singh were apprehended at the spot.

5. Learned counsel for petitioner Raju Shah submits that 900 Saudi Riyal are alleged to have been recovered at his instance, and the case of petitioner is at parity with co-accused Harish Singh, from whom cash of Rs.6,000/- was allegedly recovered along with a wrist watch and has been released on bail vide order dated 04.10.2023 passed by Co-ordinate Bench in BAIL APPLN.1985/2023. It is further submitted that co-accused Firoz Khan (porter) has also been released on bail.

6. Learned counsel for petitioner Deepak Kumar submits that petitioner is not involved in the incident, as he was present at Raj Nagar Extension at the relevant time. It is further submitted that accused Deepak Kumar was not arrested at the spot, as alleged by the prosecution, but was arrested on the next day of incident on 11.07.2021. It is also submitted that accused is in custody for a period of about three years and the conclusion of trial is likely to take considerable time, since the charge is yet to be framed.

7. Learned counsel for petitioner Vijay Bhan Pandey submits that as per



case of prosecution, recorded in the FIR, the proceedings were initiated on the basis of information received by Police from secret informer, on which the complainant was contacted after boarding the train. It is contended that no independent witness present in the train was joined during investigation, after the complainant had allegedly boarded the train.

8. On the other hand, learned APP for the State vehemently opposes the applications and submits that robbery was committed at rented office of accused Vijay Bhan Pandey and Deepak Kumar, who were armed with deadly weapons. So far as, Raju Shah is concerned, it is submitted that recovery of 900 Saudi Riyal was made at his instance. It is clarified by IO that since the completion of proceedings took considerable time, the formal arrest was made only on 11.07.2021.

9. The case of petitioner Raju Shah in BAIL APPLN.4253/2023 is at parity with co-accused Harish Singh, who has already been admitted to bail. Considering the facts and circumstances, Raju Shah is admitted to bail on furnishing personal bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand only) with one surety in the like amount to the satisfaction of the learned trial court and subject to the following conditions :

- (i) Petitioner shall provide his mobile number to the Investigating Officer (IO) / SHO concerned on release;
- (ii) In case of change of address, petitioner shall intimate/communicate his fresh address to the IO / SHO, PS concerned as well as to the learned Trial Court; and
- (iii) Petitioner shall not influence the witnesses in any manner.

BAIL APPLN.3702/2023 is accordingly disposed of.

10. So far as accused Deepak Kumar and Vijay Bhan Pandey are



concerned, they allegedly used deadly weapons in commission of offence. Also, recovery of Rs.10,000/- from Deepak Kumar and Rs.16,500/- along with 100 Saudi Riyal from Vijay Bhan Pandey was made at their instance. In the facts and circumstances, no grounds for bail are made out. BAIL APPLN.4009/2023 and 4253/2023, are accordingly dismissed.

Nothing stated herein shall tantamount to an expression of opinion on the merits of the case. Further, considering the fact that petitioners are in custody since 11.07.2021, learned Trial Court is directed to make an endeavour to expeditiously consider arguments on charge and examine the material witnesses.

A copy of this order be sent to the Superintendent Jail and concerned Trial Court for information and compliance.

A copy of this order be kept in connected applications.

ANOOP KUMAR MENDIRATTA, J.

APRIL 10, 2024/R