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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 3738/2023 & CRL.M.A. 30504/2023

MANISH GEHLOT

..... Applicant

Through: Mr. Parveen, Adv. through
V.C.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Pradeep Gahalot, APP
for the State along with
Adv. Anuradha Dutta.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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10.04.2024

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No.01297/2021 dated 15.12.2021, registered at e-Police Station Patparganj Industrial Area, East District, for the offences under Section 379 of the Indian Penal Code, 1860 ('IPC'). Chargesheet has been filed against the applicant for the offences under Sections 392/397/34 of the IPC.

2. The present FIR was registered at the instance of the complainant, namely, Anil Bhatia. It is alleged that the complainant was offered a lift by the accused persons who offered to drop him in their car. It is alleged that a few minutes after the complainant sat in the car, three of the accused persons took out guns and snatched the phone and ATM cards of the complainant. It is alleged that they also withdrew an amount of ₹50,000/- from the different ATM cards of the complainant.

3. The applicant and the other co-accused persons were in

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custody in FIR No. 507/2021 for the offences under Sections 392/397/411/34 of the IPC. It is alleged that when the co-accused persons, namely Rahul and Arun, were arrested in relation to FIR No. 507/2021, co-accused Rahul was found to be driving the Swift car allegedly used in the commission of the offence in the present FIR while co-accused Arun was seated in the car. Two of the ATM cards of the complainant were also recovered from the said co-accused persons.

4. Thereafter, the accused persons were formally arrested in the present case on 14.01.2022. It is alleged that co-accused Rahul and Arun disclosed their involvement in the present case and also disclosed the involvement of the applicant in the same.

5. A toy pistol was allegedly recovered on the basis of the disclosure of the co-accused Rahul. Another toy pistol was allegedly recovered on the basis of the disclosure of co-accused Vipul. It is alleged that a country made pistol and two live cartridges were recovered on the basis of the disclosure of the co-accused Arun.

6. It is alleged that the accused persons also allegedly disclosed their involvement in two other cases.

7. It is alleged that the applicant was identified by the complainant during the Test Identification Parade ('TIP') proceedings while co-accused Rahul and Arun refused to participate in the same.

8. The learned counsel for the applicant submits that applicant has been falsely implicated in the present case as he was already in custody in relation to another FIR No. 507/2021. He submits that no recovery was effectuated from the applicant.

9. He submits that even though the chargesheet mentions that the car was recovered while in possession of the co-accused



persons, but the statement of the owner of the vehicle categorically points out that the car was seized from the owner's house.

10. He submits that the prosecution has tried to fasten the responsibility of other cases on the applicant solely for the reasons that he was in custody.

11. He further submits that the TIP of the applicant was conducted while he was in custody and the applicant had also not refused the TIP.

12. He submits that the applicant has been implicated in the present case merely on the basis of the disclosure statement of the co-accused persons and nothing has been recovered from the applicant.

13. He submits that the applicant is married and is the only bread earner in his family.

14. The learned Additional Public Prosecutor for the State opposes the grant of any relief to the applicant. He submits that the offences alleged in the present case are grave in nature.

15. He submits that the applicant allegedly transferred a sum of ₹15,000/- in the account of on person, namely, Rohit Kumar, and took the amount from him in cash on the pretext of the ill health of his mother.

16. He submits that the applicant was identified by the complainant during the TIP proceedings. He submits that the applicant was also identified by PW Rohit Kumar.

17. I have heard the learned counsel for the parties and perused the record.

18. The law in regard to grant or refusal of bail is well settled. The discretion is to be exercised in a judicious manner and not as a matter of course. A detailed examination of evidence is not



required to be undertaken, at this stage, and only a *prima facie* reason for the grant or refusal of bail, has to be indicated. The Court has to consider the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or threat to the complainant and the possibility of the accused fleeing from the course of justice.

19. While it is true that the applicant is embroiled in multiple criminal cases, however, it is settled law that pendency of several criminal cases against an accused person, by itself alone, cannot be the basis for refusal of prayer for bail and a holistic view of the facts has to be taken by the Court while considering grant of bail [***Prabhakar Tewari v. State of U.P. : (2020) 11 SCC 648***].

20. It is not disputed that the car that was used in the commission of the offence was not recovered at the instance of the applicant. It is pertinent to note that while two toy pistols and a country made pistol were recovered at the instance of the other co-accused persons, no pistol has been recovered from the applicant.

21. It is also not disputed that two of the ATM cards which were alleged to have been robbed from the complainant were recovered from the possession of the co-accused Rahul and Arun.

22. The applicant was arrested in the present case on 14.01.2022. The Status Report mentions that only two out of the nine witnesses have been examined yet. In such circumstances, the trial is likely going to take a considerable period of time.

23. The Hon'ble Apex Court in the case of ***Union of India v. K.A. Najeeb : AIR 2021 SC 712*** held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would



ordinarily be obligated to enlarge them on bail.

24. A long period of incarceration, thus, is also a factor which has to be kept in mind at the time of deciding the question of grant or refusal of bail.

25. The chargesheet has been filed and the investigation in the present case is complete. It is not denied that the victim has already been examined. In view of the same, this Court is of the opinion that no purpose would be served by keeping the applicant in further custody.

26. However, appropriate conditions ought to put to allay the apprehension of tampering the evidence or influencing the witnesses.

27. Keeping in mind the facts and circumstances of the case, I am satisfied that the applicant has made out a case for grant of regular bail.

28. The applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of ₹20,000 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) The applicant 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) The applicant shall appear before the learned Trial Court as and when directed;
- c) The applicant shall under no circumstances leave the boundaries of Delhi without permission of the learned Trial Court;



- d) The applicant shall provide his mobile number to the concerned Investigation Officer and shall not change the same without intimating to the concerned Investigating Officer;
- e) The applicant shall provide his permanent address to the concerned Investigating Officer and shall not change his address without intimating the concerned Investigating Officer.

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

30. It is clarified that any observations made in the present order are for the purpose of deciding the present bail applications 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.

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

AMIT MAHAJAN, J

APRIL 10, 2024

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