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

+ **BAIL APPLN. 2703/2024**

ASHRAF @ASHU

.....Petitioner

Through: Mohd. Shamikh and Mr. M. A.
Mansoori, Advocates

versus

STATE OF DELHI

.....Respondent

Through: Mr.Aman Usman, APP for State with
Mr.Sushanth Choudhary, Ms.Sunita
Farswan, Mr.G.R. Dhir, Mr.Akshay
Choudhary, Mr.Varun Sharma,
Mr.Rahul and Mr.Arun Sanwal,
Advocates alongwith SI Shivam, P.S.
Madhu Vihar.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

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01.08.2024

CRL.M.A. 22618/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

BAIL APPLN. 2703/2024

1. An application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for grant of regular bail in FIR No. 610/2023 under Sections 392/394/397/34 IPC registered at P.S. Madhu Vihar.
2. In brief, as per the case of the prosecution, FIR was registered on statement of complainant, Rishabh Aggarwal who alleged that he is a resident of Pilibhit, running a printing press and was in Delhi for buying



some business material. On 04.12.2023, at about 4:00 AM when he got down from a bus in front of EDM Mall, he hired an auto rickshaw for going towards Kashmiri Gate. Accused (petitioner) was already sitting in the said auto on rear seat. On the way, driver stopped the auto and informed that he was going for urination. After some time, he suddenly came and pushed the complainant and put a knife on the neck of complainant. He further threatened to stab complainant in case he failed to handover the articles. An amount of Rs.3,000/- was taken out from the pant of complainant by co-accused alongwith Rs.1400/- from his jacket by the petitioner. Petitioner also robbed complainant of his mobile phone.

5. Learned counsel for the petitioner submits that the petitioner was not arrested at the spot but on the basis of disclosure statement of co-accused made in *kalandra* on 26.12.2023. Further, no injuries were inflicted to the complainant. He emphasizes that the mobile phone was not recovered and as such allegations are not corroborated. It is also pointed out that statement of complainant has since been recorded. Petitioner is further stated to be in custody for about 07 months.

6. On the other hand, application is vehemently opposed by learned APP for the State and it is pointed out that offence was committed in furtherance of common intention, since money was taken out by both the auto driver as well as the petitioner, while mobile phone was robbed by the petitioner. He further submits that complainant did not have enmity with either of the accused, and there is no reason to falsely implicate them. He emphasizes that the petitioner does not have clean past antecedents and is involved in other cases, though it has been pointed out by the learned counsel for the petitioner that accused has been acquitted in other two cases while in the



third case, an application has been filed by IO concerned informing that there is no incriminating evidence against the petitioner.

7. Admittedly, complainant, who was a visitor to Delhi, was robbed at point of knife in furtherance of common intention while he hired an 'auto' for going towards Kashmiri Gate. Complainant was robbed of cash as well as his mobile. There is no possibility of false implication as complainant had no enmity with either of the accused. It cannot be overlooked that petitioner does not have clean past antecedents though he may have been acquitted in other cases as claimed by learned counsel for petitioner.

Considering the heinous nature of the allegations and evidence on record, no grounds for bail are made out.

Application is accordingly dismissed. Pending application, if any, also stands disposed of.

Nothing stated herein shall tantamount to expression of opinion on the merits of case.

A copy of this order be forwarded to the learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J.

AUGUST 01, 2024/v