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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2725/2024**

MUSA

.....Applicant

Through: Mr. Sunil Tiwari, Adv.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Naresh Kumar
Chahar, APP for the State
SI Anupam, PS Jama
Masjid

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
23.10.2024

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1) The applicant seeks regular bail in FIR No. 259/2023 dated 14.06.2023 registered at Police Station Jama Masjid for offences under Sections 394/397/34 of the Indian Penal Code, 1860 ('IPC').

2) The FIR in the present case was registered on a complaint by the victim alleging that while he was returning from the market, he was attacked by three boys. It is alleged that one of them caught hold of the victim from the back side and amongst the remaining two, one of the boys was the applicant who allegedly showed knife to the victim and snatched the victim's mobile phone. It is further alleged that the victim was also attacked through blade by one of the accused persons namely Arib. It is alleged that thereafter, on the alarm being raised, all the co-accused fled from the place of occurrence.

3) The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He

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submits that one of the co-accused was apprehended on the spot. He submits that the applicant was only named in a disclosure, and has consequently been falsely implicated in the present case.

4) *Per contra*, the learned Additional Public Prosecutor for the State opposes the request for grant of any relief to the applicant. He submits that specific role is attributed to the applicant in the present case. He submits that the applicant does not have clean antecedents, and is involved in one other case under Section 308 of the IPC.

5) On the last date, it was pointed out that the victim has been examined and also cross-examined. The applicant is in custody since 14.06.2023. It is not the case of the prosecution that any injury to the victim was caused by the applicant.

6) The applicant is stated to belong to poor strata of society. Charge sheet has already been filed in the present case. It is not the case of the prosecution that the custodial interrogation of the applicant is required for any further investigation.

7) The object of jail is to secure the appearance of the accused persons during the trial. The object is neither punitive nor preventive and deprivation of liberty has been considered as a punishment without the guilt being proved. The applicant cannot be made to spend the entire period of trial in custody especially when the trial is likely to take considerable time.

8) Considering the aforesaid discussion, this Court is of the opinion that the applicant has made out a case for grant of bail.

9) In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court / Duty MM / Link MM, on



the following conditions:

- a. He 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. He shall appear before the learned Trial Court as and when directed;
- c. He shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- d. He shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

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

11) 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.

12) The bail application is allowed in the aforesaid terms.

AMIT MAHAJAN, J

OCTOBER 23, 2024

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