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

+ **BAIL APPLN. 4008/2023 & CRL.M.A. 32442/2023**

MANOJ KUMAR Applicant
Through: Mr. Bhagwan Jha, Adv.
(through VC)

versus

THE STATE NCT OF DELHI
AND ANR. Respondents
Through: Mr. Utkarsh, APP for the
State with SI Raj Kumar
and HC Sunil Kumar.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

% **ORDER**
07.02.2024

1. The present application is filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail in E-FIR No. SD-MG-000272/2023 dated 27.09.2023, under Section 379 of the Indian Penal Code, 1860 ('IPC'), registered at e-Police Station (Maidan Garhi, South District).
2. The present FIR was registered on a complaint that 63 LPG gas cylinders were stolen from the place of the complainant. The applicant, by order dated 29.11.2023, was granted interim protection subject to him joining investigation.
3. The learned Additional Public Prosecutor for the State submits that the applicant has thereafter joined investigation and the chargesheet has already been filed. He submits that the applicant is no longer required for further investigation.
4. The learned counsel for the applicant submits that disputes essentially arose between the complainant and the co-accused,



Yogesh.

5. He submits that the alleged stolen cylinders have already been recovered from the possession of the co-accused person, namely Yogesh, and he has already been admitted on regular bail.

6. The maximum punishment for the offence under Section 379 of the IPC is three years. The investigation is already complete and the chargesheet has already been filed. The co-accused from whose custody alleged stolen cylinders were recovered has already been granted bail. The custodial interrogation in such circumstances is not required.

7. The Hon'ble Apex Court in the case of ***Mohd. Asfak Alam v. State of Jharkhand : (2023) 8 SCC 632*** has observed as under:

“15. What appears from the record is that the appellant cooperated with the investigation both before 8-8-2022, when no protection was granted to him and after 8-8-2022, when he enjoyed protection till the filing of the charge-sheet and the cognizance thereof on 1-10-2022. Thus, once the charge-sheet was filed and there was no impediment, at least on the part of the accused, the court having regard to the nature of the offences, the allegations and the maximum sentence of the offences they were likely to carry, ought to have granted the bail as a matter of course. However, the court did not do so but mechanically rejected and, virtually, to rub salt in the wound directed the appellant to surrender and seek regular bail before the trial court. Therefore, in the opinion of this Court, the High Court fell into error in adopting such a casual approach.

16. The impugned order of rejecting the bail and directing the appellant, to surrender and later seek bail, therefore, cannot stand, and is hereby set aside. Before parting, the Court would direct all the courts seized of proceedings to strictly follow the law laid down in Arnesh Kumar [Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449 : (2014) 8 SCR 128] and reiterate the directions



contained thereunder, as well as other directions.”

8. In view of the above, the applicant is admitted on bail on furnishing a personal bond for a sum of ₹10,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court, on the following conditions:

- a. The applicants shall join and cooperate with the investigation, if required, as and when directed by the IO;
- b. The applicants will not leave the boundaries of the National Capital Region without informing the IO/ SHO concerned;
- c. The applicants shall not contact the complainant / witnesses or tamper with the evidence in any manner;
- d. The applicant shall appear before the learned Trial Court on every date of hearing.

9. The present bail application is allowed in the aforesaid terms.

10. It is clarified that the observations made in the present case are only for the purpose of considering the bail application 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.

AMIT MAHAJAN, J

FEBRUARY 7, 2024

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