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

+ **BAIL APPLN. 4139/2023 & CRL.M.A. 33676/2023**

HIMANSHU @ LALOO

..... Petitioner

Through: Mr. Jai Gaur and Mr. Vijay Kumar,
Advts.

versus

THE STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Hemant Mehla, APP for State
with SI Nitesh Mahiya, PS. SP Badli.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

16.02.2024

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1. The present petition has been filed under Section 439 CrPC seeking regular bail in connection with FIR No.440/2023 under Sections 392/397/34 IPC registered at Police Station Samaipur Badli.
2. The case of the prosecution is that when the complainant was returning after attending marriage on the intervening night of 10th and 11th May 2023, two accused persons got out of their car and started following the complainant and thereafter, got hold of the complainant, one of the accused put a knife to the stomach of the complainant and the other took the money and phone of the complainant and then ran away from the spot. When the complainant reached his home, he called the police and made a complaint which culminated into registration of the aforesaid FIR.
3. The learned counsel for the petitioner submits that as per the prosecution, there are only two accused persons alleged in the complaint and in the charge sheet, the said accused persons have been identified as Deepak @ Chhanga and Deepak @ Ravi.



4. He submits that his name has surfaced only on the basis of a disclosure statement of the said accused persons, who stated that there was a third person also. He submits that this disclosure statement is at variance with the case of the prosecution as borne out from the FIR.

5. He submits that the petitioner is in custody since 27.06.2023 and no recovery was made from the present petitioner. According to him, the recovery of the mobile phone was made from Deepak @ Ravi and whereas one knife was recovered from Deepak @ Chhanga. Likewise, the vehicle which was allegedly use in the commission of the offence was also recovered at the instance of aforesaid co-accused namely, Deepak @ Chhanga and Deepak @ Ravi.

6. He submits that the investigation is complete and no recovery is required to be made from the petitioner. Therefore, no useful purpose will be served in keeping the petitioner in judicial custody. He, therefore, urges the Court to enlarge the petitioner on bail.

7. *Per contra*, the learned APP for the State has argued on the lines of the Status Report, which has been handed over in the Court and is taken on record. He further submits that there are two more cases registered against the petitioner.

8. In rejoinder, the learned counsel for the petitioner clarifies that in so far as two cases pointed out by the prosecution in the Status Report are concerned, the petitioner is already on bail in the said two cases.

9. I have given my thoughtful consideration to the submissions of both the sides, as well as, to the material on record. In the FIR the complainant has only mentioned two accused persons and the said two accused have been identified in the charge sheet as Deepak @ Chhanga and Deepak @ Ravi.



10. It is also not in dispute that the name of the present petitioner has surfaced only in the disclosure statement. Further, it is also a matter of record that no recovery has been made from the present petitioner. The mobile phone, the knife, as well as, vehicle used in the commission of offence, have been recovered from the co-accused or at their instance.

11. Since the investigation is complete, the custody of the petitioner is no more required.

12. In so far as other two cases are concerned, the petitioner is stated to be on bail in the said cases registered against him.

13. The matter is at the stage of framing of charge and the prosecution has cited as many as 11 witnesses. Inevitably the trial is going to be a protracted one and in the given circumstances, the petitioner cannot be kept in judicial custody for an indefinite period to await the outcome of trial.

14. It is not the case of the prosecution in the Status Report that the petitioner is a flight risk or he may influence the witnesses in case he is enlarged on bail. In any case, appropriate conditions can be put to ensure that the petitioner is available to stand the trial and he does not try to influence the public witnesses.

15. Considering the aforesaid circumstances in entirety, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is enlarged on bail subject to his furnishing a Personal Bond in the sum of Rs. 20,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/CMM/Duty Magistrate, further subject to the following conditions:-

a) Petitioner shall not leave the Delhi without prior permission of the Court.



- b) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
 - c) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
 - d) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.
- 16. The petition stands disposed of.
 - 17. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.
 - 18. Order *dasti* under signatures of the Court Master.
 - 19. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

FEBRUARY 16, 2024/dss