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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3302/2024 and CRL.M.A. 27551/2024**
MANISH KUMARApplicant

Through: Mr. Maninder Singh,
Senior Advocate with Mr. Ajay Kumar
Pipaniya, Mr. Harjas Singh Anand, Ms.
Diksha Dharia, Mr. Gopesh Jindal, Mr.
Turang Pandit, Mr. Aditya Sharma and
Ms. Sanjana Nair, Advs.

versus

STATE OF NCT OF DELHIRespondent
Through: Mr. Ajay Vikram Singh,
APP for the State.
SI Sandeep, PS: Dabri.
Mr. Ashok Kumar Sharma, Mr. Shiv
Ram Sharma and Mr. Gaurav, Advs.
for complainant along with
complainant in person.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
22.10.2024

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1. The present application is filed seeking pre-arrest bail in FIR No. 509/2024 dated 08.08.2024 registered at Police Station Dabri for offences under Sections 323/341/365/506/34 of the Indian Penal Code, 1860.
 2. It is alleged that on the intervening night of 07/08.08.2023, the complainant and his friend Anil arrived at Mahaveer Enclave, Delhi to meet S. Madesh. The complainant alleged that certain amount was given to the co-accused S. Madesh and he was not returning the same. It is alleged that when the complainant reached the said place, S. Madesh was accompanied by three more boys. He forced the complainant to sit in one of the accused
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persons' car and on being refused, all the accused persons gave beatings to the complainant. The complainant alleged that he was thereafter kidnapped at the instance of S. Madhesh but was later released. The FIR was initially not registered which led to the filing of an application under Section 156(3) of the CrPC. The FIR was registered on 08.08.2024 under Sections 323/341/365/506/34 of the Indian Penal Code, 1860. The allegation against the applicant is that he is the friend of the accused - S. Madhesh and at his instance, the applicant had kidnapped the complainant.

3. Then learned Senior Counsel for the applicant has handed over an order dated 19.10.2024 passed by the learned Trial Court pursuant to which accused S. Madhesh has been admitted on bail.

4. The learned Trial Court noted that there has been a delay of almost one year in the registration of FIR.

5. Undisputedly, the complaint was given alleging that the complainant had gone to meet the accused S. Madhesh with whom he had a financial deal, and pursuant to a quarrel, the accused S. Madhesh and other accused persons including the applicant, had kidnapped the complainant. No motive has therefore been assigned to the applicant for committing the offence except that he committed the crime at the instance of accused S. Madhesh.

6. Concededly, accused - S. Madhesh has been admitted on bail. This Court, by order dated 11.09.2024, had protected the applicant on his joining and cooperating with the investigation.

7. On being pointedly asked, the Investigating Officer (“IO”) states that the applicant has since joined the investigation. The learned Additional Public Prosecutor for the State, however, submits that the applicant has not cooperated with the



investigation and is not divulging the relevant information.

8. It is trite law that merely because an accused person does not confess to the allegations levelled against him and makes self-incriminating statements, it cannot be said that he is not cooperating with the investigation [Ref. ***Bijender v State of Haryana : Special Leave to Appeal (Crl.)No. 1079/2024***, decided on 06.03.2024].

9. The purpose of custodial interrogation is to aid the investigation and is not punitive. In the opinion of this Court, when the alleged incident happened more than a year back and the co-accused has been admitted on bail, custodial interrogation is not required.

10. In view of the above, it is directed that the applicant, in the event of arrest, be admitted on bail on furnishing a bail bond for a sum of ₹25,000/- with two sureties of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

- i. The applicant shall join and cooperate with the investigation as and when directed by the Investigating Officer;
- ii. The applicant shall not leave the country without the permission of the learned Trial Court;
- iii. The applicant shall not contact the complainant or tamper with the evidence in any manner;
- iv. The applicant shall give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;
- v. The applicant shall provide his residential address to the concerned IO/SHO and shall not change the same without informing the IO/SHO;



11. 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.

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

13. The bail application is allowed in the aforementioned terms. Pending application stands disposed of.

AMIT MAHAJAN, J

OCTOBER 22, 2024
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