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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3321/2024**
AAZADPetitioner

Through: Mr. Jatin Malhotra, Mr. Shiv Kumar
Gautam Mr. Shanu Asnsari, Mr.
Parvesh Kumar, Advocates.

versus

STATE OF NCT OF DELHIRespondent
Through: Mr. Hemant Mehla, APP for State
with SI Yogesh Kumar, PS: Kotwali.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
16.10.2024

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1. This petition has been filed seeking regular bail in FIR No.80023869/2024 under Sections 392/397/411/120B/34 IPC PS Kotwali.
2. The petitioner has been in custody since 05th April, 2024. As per the Nominal Roll, there are no previous involvements and the jail conduct has been satisfactory.
3. The case of the prosecution arises from an E-FIR which was registered on 08th March, 2024, claiming that there was a theft of Rs. 38,500/- by two unknown bike riders. The complaint has been made by one Akshay Soni who stated that he collected a payment of Rs. 33,85,000/- from Naya Bazar, Sadar Bazar, which was to be taken to his office Laxmi Nagar and was travelling on his scooty.
4. At about, 04:00 PM when he reached at Geeta Colony Loop, two



unknown persons arrived on a motorcycle and the person sitting on the rear seat kicked the *scooty* of the complainant, which resulted into him falling and both accused threatened the complainant, pointed a pistol on the stomach of the complainant, and forcefully robbed the bag with the cash.

5. During investigation, CCTV footages were obtained which revealed that one *scooty* and one motorcycle each with two persons was behind the complainant; the actual number of both the vehicles were obtained despite tapes being affixed on the motorcycles.

6. As per the case of the prosecution, Rs. 50,000 was recovered from the petitioner, no weapon was recovered. The status report has placed the screenshots of the CCTV footage. The CCTV footage though shows a *scooty* being followed by some two wheelers, though it cannot be ascertained straight away as to who the persons are, since they were all wearing helmets. Counsel for petitioner, therefore, also questions the TIP of petitioner which was conducted and complainant having identified.

7. Counsel for the petitioner further contends that only Rs. 50,000/- was recovered from petitioner, which was his own earnings since he was in the business of sale of protein powder.

8. It has also been pointed out that as per the original e-FIR, registered only after 3 days (8th March 2024) of the incident (6th March, 2024) and also only for Rs. 38,500/- which amount was later increased to Rs. 3,38,500/- in the statement recorded under Section 161 Cr.P.C.

9. It is also contended that the person from whom the cash had been allegedly collected by the complainant has also not come forward to prove the source of the cash which the complainant states he was carrying. Two other co-accused in the matter being Mohd Tariq and Wasim Ahmed have been



granted bail by the Trial Court by orders dated 24th September 2024 and 27th September 2024.

10. APP for State, however, states that supplementary charge sheet is to be filed with respect to the source of the money as per the statement given by the person from whom the cash was collected.

11. In these circumstances, the Court is of the opinion that the custody of the petitioner cannot be extended indefinitely and is entitled to bail, keeping in mind the contentions of the petitioner, there being no previous involvement of the petitioner as well as the bail having been granted to co-accused.

12. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- iv. Petitioner shall join investigation as and when called by the IO concerned.
- v. Petitioner shall provide all mobile numbers to the IO



concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.

- vi. Petitioner will mark presence physically before the concerned I.O. every Thursday at 4 p.m., and will be not kept waiting for more than an hour.
- vii. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.

13. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.

14. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

15. '*Dasti*'

16. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.

17. Order be uploaded on the website of this Court.

ANISH DAYAL, J

OCTOBER 16, 2024/RK