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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4195/2024**

MOHD ABDUL QADIR

.....Petitioner

Through: Mr. Akshay Bhandari, Mr. Janak Raj
Ambavat, Ms. Megha Saroa, Mr.
Anmol Sachdeva and Mr. Kushal
Kumar, Advs.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for State.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

16.12.2024

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1. This is a petition filed under Section 483 read with Section 528 of BNSS (erstwhile Sections 439 and 482 of Cr.P.C. respectively) seeking regular bail in FIR No. 73/2018, under Section 408 of IPC, registered at Police Station Economic Offences Wing. The chargesheet has been filed under section 409, 120B, 174A of IPC.
2. As per the FIR, it is stated that the petitioner while replenishing cash in ATM machine, had misappropriated about Rs. 2.23 Crores. One co-worker Rahul made a complaint to the company and thereafter the present FIR was registered.
3. Mr. Bhandari, learned counsel for the petitioner states that in the present case, the petitioner was not the only person who was replenishing the cash in the ATM machine. Admittedly, there are several other persons



who were replenishing the cash. In addition, the co-accused namely Salman, who was also replenishing cash, has already been granted bail. The allegations against the petitioner are only based on oral statement of Rahul and there is no document to support the said statement. Lastly, there has been no recovery from the petitioner and the petitioner is in custody since 08.02.2023.

4. *Per contra*, Ms. Dalal, learned APP states that the S&G key which is required to operate the machine was solely in the custody of the petitioner and the allegations of missing cash in the ATM is substantiated by the audit report of the complainant company. She further states that the petitioner was declared a proclaimed offender and was arrested after a period of four years.

5. I have heard learned counsel for the parties.

6. In the present case, the lock audit report shows that other than the petitioner, there were other people who were having the S&G key. Except the statement of Rahul, *prima facie*, there is no other incriminating evidence against the petitioner. No money out of Rs. 2.23 Crores has been recovered from the petitioner and the co-accused Salman who was on another route has already been granted bail by the Court. The petitioner is in custody since 08.02.2023 and is still an undertrial prisoner. In chargesheet, total 19 witnesses are cited and till date, not a single witness has been examined. The petitioner is the sole bread earner of his family.

7. With regard to being a proclaimed offender, the petitioner was never served with the summons. The process server was informed by the neighbours that the petitioner did not reside at that address.

8. Keeping in view the facts and circumstances as noted above and the period of incarceration already undergone, the petition is allowed and the



petitioner is directed to be released on regular bail, subject to the following terms and conditions:-

- (a) The petitioner shall furnish a personal bond in the sum of Rs. 10,000/- (Rupees Ten Thousand Only) with one surety of the like amount to the satisfaction of the concerned Trial Court;
 - (b) The petitioner shall appear before the concerned Court as and when the matter is taken up for hearing;
 - (c) The applicant shall provide his mobile number to the concerned IO, which shall be kept in working condition and switched on at all times.
 - (d) The petitioner shall also provide his permanent residential address. In case of change of residential address or contact details, the petitioner shall promptly inform the same to the concerned IO;
 - (e) The applicant shall not leave the country without the permission of the concerned Court during the bail period and surrender his passport, if any, at the time of release before the concerned Court;
 - (f) The applicant shall not directly/indirectly try to get in touch with any prosecution witnesses or tamper with the evidence.
9. Nothing stated hereinabove shall be deemed to be on the merits of the case, which shall be adjudicated on its own merits.
 10. The petition stands disposed of.
 11. The status report is taken on record.
 12. A copy of this order be communicated electronically to the concerned



Jail Superintendent for information and necessary compliance.

DECEMBER 16, 2024/akc

JASMEET SINGH, J