



2025:DHC:2060



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

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Date of Decision: 27.03.2025+ **BAIL APPLN. 826/2025**

ASIF KHAN

.....Petitioner

Through: Mr. Pranav Sarthi, Advocate

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for the State
with SI Mahavir and SI Manish, PS
Daryaganj**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The petitioner seeks to be released on bail in case FIR No. 585/2023 of PS Daryaganj for offences under Section 392/395/397/412/120B/182/211/212/109/34 IPC.

2. Broadly speaking, allegation against the petitioner is that he conspired in committing of dacoity of Rs. 90,00,000/-. The petitioner personally was not involved in the actual act of dacoity. However, out of the looted money, a sum of Rs. 19,66,000/- was allegedly recovered from his house at the instance of the petitioner. According to prosecution, the petitioner was an employee of the victim Mr. Mayank Jain and was involved in the conspiracy to commit dacoity along with other accused persons.

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3. Learned counsel for petitioner contended that petitioner is innocent and has been falsely implicated in this case as he was merely an accountant of Shri Devender Jain and Shri Mayank Jain, his work profile being only deskwork from office. According to the petitioner, he was falsely implicated in this case on account of enmity with the accused Anil Tyagi and the CCTV footage of the alleged incident does not depict his presence. Learned counsel for petitioner further took me through the documents on record and contended that arrest of six accused persons, including the petitioner from distant places on the same day is not possible. For example, learned counsel for petitioner contended that it is not believable that at 11:00 pm on 19.12.2023, accused Ashish would be arrested from Shahdara, Delhi and after completion of all arrest formalities, accused Lucky would be arrested from Shamli, U.P. on the same night by about 11:30 pm.

4. In response to a query, the Investigating Officer submitted that he did not inform any of the local police stations in Baghpat or Shamli while arresting the accused persons.

5. Finding substance in the submission of learned counsel for petitioner as regards the timing of arrest of all the accused persons, in order to satisfy myself about legality of arrests, I directed the Investigating Officer/SI Mahavir to show me the case diary of 19.12.2023 regarding those arrests. It is found that there is single case diary dated 19.12.2023, which is completely silent about the individual arrests made and even the relevant columns of action taken and places visited by the Investigating Officer have been left



blank. Although in the details of the investigation column there is a mention of arrest of the accused persons and that some recovery was effected and deposited in Malkhana, there is no mention at all as to what was recovered. Rather the column of property recovered has been left completely blank. At this stage, it is submitted by learned prosecutor that on the reverse side of the case diary dated 19.12.2023, is the description of the alleged six arrests. I have examined that as well. Even that description, *prima facie* does not convince genuineness of the arrests. Extremely small fonts in order to fit in the elaborate contents seem to have been inserted subsequently since the next printed page number of case diary deals with the next day.

6. Of course, the above observations would be tested by the learned Trial Court at appropriate stage. But for present purposes, I am not convinced about the sustainability of the arrest of the petitioner.

7. Therefore, the bail petition is allowed and the petitioner is directed to be released on bail subject to his furnishing personal bond in the sum of Rs. 10,000/- with one surety in the like amount to the satisfaction of the Trial Court. The petitioner shall not interact with any of the witnesses of the prosecution. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the petitioner.

**GIRISH KATHPALIA
(JUDGE)**

MARCH 27, 2025/rk