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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1847/2024 & CRL.M.A. 16158/2024

MOHSIN

.....Petitioner

Through: Mr. R.S. Juneja and Mr. J.S. Juneja,
Advocates.

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Tarang Srivastava, APP for the
State.

SI Anil, P.S.: Seemapuri.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

10.02.2025

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By way of the present petition filed under section 439 of the Code of Criminal Procedure 1973, the petitioner seeks regular bail in case FIR No.0758/2023 dated 16.10.2023 registered under sections 394/397/365/34 of the Indian Penal Code, 1860 ('IPC') at P.S.: Seemapuri, Delhi.

2. Notice on the petition was issued on 22.05.2024; pursuant to which Status Report dated 11.12.2024 has been filed on behalf of the State.
3. Nominal Roll dated 31.07.2024 has also been received from the concerned Jail Superintendent.
4. The court has heard Mr. R.S. Juneja, learned counsel appearing on behalf of the petitioner; as well as Mr. Tarang Srivastava, learned APP appearing on behalf of the State at considerable length.
5. The Investigating Officer ('I.O.') has informed the court that the complainant was duly intimated about the pendency of the present proceedings and about the fact that the complainant was entitled to be



heard in the case; the complainant has joined *via* video-conferencing; and though his name is visible on the video-conferencing system but even after several attempts, he is neither visible nor audible.

6. Mr. Juneja submits, that the petitioner has been implicated in the case based *only* on the disclosure of co-accused Vikas @ D.K. Learned counsel submits that it is the prosecution case that the case property *i.e.*, 06 cartoons of readymade garments, were recovered from a tempo from Tronica City on the Delhi Baghpat Road, Uttar Pradesh at instance of the present petitioner *and* co-accused Vikas @ D.K.
7. Learned counsel however submits, that admittedly it is not the prosecution case that the petitioner was at all present at the time the complainant - Lal Bahadur Prasad - who was a driver in a transport company, was abducted and the goods he was transporting were robbed on 15.10.2023 at about 02:45 a.m. near the Apsara Border flyover, near Shahdara, Delhi.
8. Mr. Juneja submits, that the allegations in the present case are that the complainant was accosted by 03-04 persons, who came in a car and beat-up the complainant; tied a blindfold on him; forced him to sit in their car; and subsequently, fled with the tempo carrying garments.
9. Learned counsel submits, that the allegation against the petitioner is that he had *helped* the other co-accused persons in disposing-of the tempo and the readymade garments. Mr. Juneja submits that since it is the admitted position that the petitioner was not present at the time that the complainant was accosted and robbed, the petitioner was not put through a TIP since there was no question of the complainant identifying him.



10. It is also pointed-out, that the complainant could not identify Vikas @ D.K., which is relevant since the prosecution case is that it was Vikas who had disclosed the petitioner's involvement in the case.
11. In this backdrop, it is argued, that as is evident from Nominal Roll dated 31.07.2024, the petitioner has suffered judicial custody for more than 01 year and 03 months; that his jail conduct has been 'satisfactory'; and that though the petitioner has 01 other involvement in case FIR No. 31030/2021 registered under sections 379/411 IPC at P.S.: Nand Nagri, Delhi, he is on bail in that case.
12. In view of the above, Mr. Juneja argues that the petitioner deserves to be admitted to regular bail in the present case.
13. Opposing the grant of bail, Mr. Tarang Srivastava, learned APP appearing on behalf the State submits, that the petitioner has performed the crucial role of secreting away the tempo with the robbed goods, viz. 06 cartoons of readymade garments; and since all co-accused persons acted in concert and connivance, and are also facing the charge under section 34 IPC, each accused person would be responsible for the acts of the others.
14. Learned APP however does not dispute that the petitioner was named by co-accused Vikas @ D.K. in his disclosure statement; and it was pursuant to such statement that the petitioner was arrested; and it is the prosecution case that they recovered the tempo and the readymade garments at the petitioner's instance. Mr. Srivastava also does not dispute that in his court deposition, the complainant has failed to identify Vikas @ D.K.



15. On an overall conspectus of the facts and circumstances of the case, and especially the fact that even as per the prosecution, the petitioner's role is confined only to allegedly having secreted away the tempo and readymade garments that were subject of the robbery; and that his name was disclosed by Vikas @ D.K., who (latter) has not been identified by the complainant in his court deposition, this court is persuaded to grant to the petitioner – *Mosin s/o Sabir* – *regular bail* pending trial, subject to the following conditions:

- 15.1. The petitioner shall furnish a personal bond in the sum of Rs. 25,000/- (Rs. Twenty-five Thousand Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned trial court;
- 15.2. The petitioner shall furnish to the I.O. a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
- 15.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;
- 15.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and



- 15.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.
16. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail.
17. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.
18. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
19. The petition stands disposed-of.
20. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 10, 2025/ak