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

+ **BAIL APPLN. 2814/2024**

BHANU @ BHARAT

.....Petitioner

Through: Mr. Rajinder Kumar with Mr.
Ashutosh, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Manjeet Arya, APP for the State
with SI Ashish Yadav, P.S.: Gulabi
Bagh.
Mr. Ashok Kumar Verma, Advocate
for the complainant.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

14.02.2025

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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. 271/2023 dated 14.09.2023 registered under sections 392/397/34 of the Indian Penal Code, 1860 ('IPC') and sections 25/54/59 of the Arms Act, 1959 at P.S.: Gulabi Bagh, New Delhi. Consequent upon completion of investigation offences under sections 411/201/120-B IPC have been added *vide* chargesheet dated 13.11.2023.

2. Notice on this petition was issued on 08.08.2024. Status Report dated 26.08.2024 has been filed. Nominal Roll dated 27.08.2024 has been received from the concerned Jail Superintendent.
3. Mr. Rajinder Kumar, learned counsel appearing for the petitioner submits, that the role ascribed to the petitioner is that he had accompanied the other co-accused persons at the time when the offence



was committed; and that the motorcycle involved in the commission of the offence alongwith a sum of Rs.1.90 lacs was recovered from the petitioner, which money he was carrying in a bag on the said motorcycle. Counsel points-out however that the seizure memo/recovery memo relates only to the recovery of the sum of Rs.1.90 lacs but not of the motorcycle.

4. Mr. Kumar submits, that the prosecution story is that the offence was committed on 13.09.2023, whereupon the Investigating Officer recovered some CCTV footage which showed the number plate of the motorcycle; and based on that number plate the Investigating Officer traced-out the owner of the motorcycle, who informed the I.O. in a statement recorded on 27.09.2023 that the motorcycle had been borrowed by two persons, viz. Lokesh and the petitioner on 13.09.2023 but had not been returned.
5. Counsel submits that the story that the motorcycle had been borrowed by the petitioner and had not been returned is itself unbelievable, since no complaint had been made by the motorcycle-owner, though he claims the motorcycle had not been returned for 16 days.
6. Counsel submits that that apart, the prosecution has cited the CDRs and cell-phone locations of several co-accused persons to show that they were present at the scene of the offence on the relevant date and time, but no phone connectivity or phone location has been alleged or cited insofar as the petitioner is concerned. Counsel accordingly argues that there is no material on record to show that the petitioner was present at the spot; nor anything to show that he was involved in the crime in any manner.



7. Mr. Kumar submits, that the chargesheet against the petitioner was filed way back on 13.11.2023; but charges have been framed only on 22.04.2024; and only 02 out of 20 prosecution witnesses have so far been examined.
8. In the meantime, it is pointed-out that as seen from Nominal Roll dated 27.08.2024, the petitioner has suffered judicial custody as an undertrial for about 01 year and 04 months till today; that his jail conduct has been 'satisfactory'; and that he has no other criminal involvements.
9. Counsel further informs the court that 02 co-accused persons, viz. Akash Kumar and Vikky, have also been granted regular bail *vide* order dated 05.06.2024 passed by this court in BAIL APPLN. No. 1992/2024 and order dated 22.08.2024 passed by the learned Sessions Court in SC No. 96/2024 respectively.
10. In the circumstances, it is prayed that the petitioner be enlarged on regular bail.
11. Ms. Manjeet Arya, learned APP appearing on behalf of the State and Mr. Ashok Kumar Verma, learned counsel appearing on behalf of the complainant oppose the grant of bail, submitting that the motorcycle that was involved in the crime as well as a sum of Rs.1.90 lacs have been recovered from the petitioner's possession; and the petitioner has also been identified by the complainant in the course of the judicial TIP conducted on 05.10.2023. They further submit that the petitioner is also liable for the actions of the other co-accused persons since he has also been charged with section 120-B IPC.
12. Upon an overall conspectus of the facts and circumstances of the case, what weighs with the court at this stage is (i) that the petitioner's



presence at the scene of the crime on the relevant date and time needs to be tested in the course of trial, since there appears to be no material to support phone connectivity or phone location of the petitioner with the co-accused persons; (ii) that investigation in the matter is complete; chargesheet has been filed and charges have been framed; (iii) but only 02 out of 20 prosecution witnesses have so far been examined, which means that the trial in the matter will take considerable time to conclude.

13. In the circumstances this court is inclined to grant to the petitioner – ***Bharat Singh @ Bhanu s/o Shyam Lal Saini*** – *regular bail* pending trial, subject to the following terms and conditions :

- 13.1. 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;
- 13.2. The petitioner shall furnish to the Investigating Officer 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;
- 13.3. 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;
- 13.4. 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

13.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.

14. 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.

15. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.

16. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.

17. The petition stands disposed-of in the above terms.

18. Other pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 14, 2025

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