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

+ **BAIL APPLN. 2946/2024**

TUSHAR SAXENA

.....Petitioner

Through: Mr. Bibek Tripathi, Mr. Y. Lokesh,
Mr. Arun Singh, Mr. Sudhakar
Tiwari, Advs.

versus

STATE OF GNCT OF DELHI

.....Respondent

Through: Mr. Aashneet Singh, APP
Inspector Manoj Chahar, PS
Paharganj

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

22.01.2025

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1. This is a petition filed under section 483 of BNSS seeking grant of regular bail to the petitioner in FIR No. 161/2024, dated 25.02.2024, registered at PS Paharganj, Central, Delhi under sections 323/342/377/384/34 of IPC, 1860.
2. The chargesheet has been filed under sections 417/467/468/471/323/342/347/384/377/171/34 of IPC, 1860 and the petitioner has been in custody since 25.02.2024.
3. Briefly stating the facts are that the FIR was registered on the complaint of Mr. Keshav Kumar (complainant), who was a proprietor of a company, namely, Roadex Courier and Transport. Further, the complainant appointed a boy, namely, Mr. Prashant in his company, who was earlier working as an employee and subsequently, was made a partner.



4. Thereafter, some disputes arose between the complainant and Mr. Prashant.

5. In February, 2024, the complainant received a phone call from the petitioner, who stated himself to be a Directorate of Revenue Intelligence (DRI) official and demanded money from the petitioner and if not given, threatened the complainant to implicate him in false cases. On 18.02.2024, the petitioner again called up the complainant and asked him for a sum of Rs. 20,000/-. Thereafter, on the same date, the complainant along with Mr. Prashant reached the New Delhi Railway Station where they met the petitioner, Mr. Babu Rao and Mr. Abhijeet, who all introduced themselves as DRI officials. The complainant on instructions of the petitioner handed over Rs 20,000/- to Mr. Babu Rao, after which everyone had food and drinks at the New Delhi Railway Station.

6. On 20.02.2024, the petitioner along with Mr. Babu Rao and Mr. Abhijeet took the complainant to room no. 409, Star Villa Hotel, Paharganj Delhi, where one, person, namely, Mr. Sudipto Mukherjee was already present. The petitioner along with Mr. Babu Rao and Mr. Abhijeet started beating the complainant and further, threatened him to arrange and bring Rs. 50,000/-.

7. Thereafter, it is alleged that the petitioner got the complainant undressed and recorded the same in his mobile phone. Further, the petitioner inserted his penis in the mouth of the complainant. Subsequently, in order to arrange Rs. 50,000/-, the complainant borrowed Rs. 15,000/- from his younger brother and gave the same to Mr. Prashant. Also, the complainant handed over his ATM card to Mr. Prashant, from which another sum of Rs 25,000 was withdrawn. The said amount of Rs. 40,000/- was handed over to



the petitioner.

8. Hence, the present FIR was registered.

9. During investigation, it was found that Mr. Sudipto Mukherjee was also a victim and he was examined, who also reiterated a similar incident.

10. At the time when the petitioner was arrested a fake DRI ID Card was found with the petitioner under his own name.

11. Mr. Tripathi, learned counsel for the petitioner states that till charges are framed against an individual, he is presumed to be innocent. He states that Article 21 of the Constitution of India provides that the rights of an individual are important and in case there is no likelihood of the trial concluding in the near future, the petitioner must be granted bail.

12. He states that the petitioner has already undergone incarceration for a period of 11 months and the case before the Trial Court is at the stage of framing of charges.

13. He relies upon the judgments passed by the Hon'ble Supreme Court in ***Manish Sisodia vs. Directorate of Enforcement*** 2024 SCC OnLine SC 1920 and ***Sangram Sadashiv Suryavanshi Vs. State of Maharashtra*** 2024 SCC OnLine SC 3526.

14. He further relies on the judgment laid down by the Hon'ble Supreme Court in ***Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Another*** (2024) 9 SCC 813. The operative portion reads as under:

“18 Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a



variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

19 If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”

15. He further states that a co-accused has also been granted bail.

16. *Per Contra* Mr. Singh, learned APP vehemently opposes the arguments raised by the petitioner and states that the allegations against the petitioner are serious in nature. He further states that a phone was recovered from the petitioner which shows the alleged incident. Further, a sum of Rs. 10,500/- was also recovered from the petitioner.

17. I have heard learned counsels for the parties.

18. In the present case, no doubt the rights of the petitioner under Article 21 of the Constitution of India, are valuable and the petitioner is entitled to the remedy of a speedy trial, however, as per the Nominal Roll, the petitioner has been incarcerated only for a period of about 11 months as of now.

19. In the judgment of **Manish Sisodia** (supra), the prosecution had assured that the trial would conclude within 6 to 8 months. However, since



the petitioner had already been in custody for 17 months and the trial remained incomplete despite the prosecution's assurance, therefore, the petitioner was granted bail in that case. Further in ***Javed Gulam Nabi Shaikh*** (supra), the Hon'ble Supreme Court had granted bail to the appellant on the ground that the appellant had undergone incarceration for a period of four years. Additionally, the Hon'ble Supreme Court in ***Sangram Sadashiv*** (supra) inter alia held as under:

“if in a given case, in law and on facts, an accused is entitled to bail on the ground of long incarceration without the trial making any progress, the court must grant bail. Option of expediting trial is not the solution.”

20. In the present case, the case before the learned Metropolitan Magistrate is at the stage of framing of charge and it is too early to say that the trial will not be concluded in the near future. Furthermore, the allegations against the petitioner are serious and grave in nature. Based on the testimony of Mr. Sudipto Mukherjee, another victim who has reportedly suffered a similar incident, the petitioner does not merit the grant of bail at this stage. Granting bail at this juncture may prejudice the trial proceedings.

21. In addition, a fake DRI ID Card showing the name of the petitioner has also been found upon the petitioner and the petitioner has not been able to give any satisfactory reason for the same.

22. For the said reasons, I am not inclined to entertain this petition and hence, the petition is dismissed.

JASMEET SINGH, J

JANUARY 22, 2025/sp