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

+ **BAIL APPLN. 4328/2024**

SHALIB @ SHALIM

.....Petitioner

Through: Mr. Ranvir Singh, Advocate.

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for State
with Mr. Vikas Bhardwaj, SI, PS-MS
Park.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

15.01.2025

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1. The present bail of the Code of Criminal Procedure, 1973,¹ seeking grant of bail in proceedings arising from FIR No. 54/2024 for offences under Sections 392/394/398/34 of the Indian Penal Code, 1860² read with Section 27 of the Arms Act, 1959,³ registered at Police Station Mansarovar Park, Shahdara. Subsequently, chargesheet was filed wherein the Applicant was also charged with offences under Sections 398/395/397/412/120B/34 of the IPC read with Sections 25/27 of the Arms Act.

2. In brief, the case of the prosecution is as follows:

2.1. On 20th January, 2024, a PCR Call was received by Police Station Mansarovar Park, Shahdara, which was recorded as DD No. 74A. When the

¹ "CrPC"

² "IPC"

³ "the Arms Act"



assigned Sub-Inspector, SI Bhojraj Singh arrived at the spot, he met the Complainant, Mr. Murari Chaudhary, who handed over a mobile phone which was taken into possession through seizure memo. The Complainant stated that he looks after the sales work for Palak Textile Company. On 19th January, 2024, he had sold goods to one person, who had paid him INR 1,30,000/- in cash. Since, he had to pay for labour and the transport vehicles at the company's warehouse, he kept the payment with him.

2.2. On 20th January, 2024, intending to make the payment, he carried the money in a blue-collared leather bag. However, he was unable to visit the warehouse in Siraspur, and was heading home in his two-wheeler with the cash was still in his bag. While returning home, at about 8.30 PM, near S.K Glass and Aluminum Door, Motiram Road, Shahadara, he stopped his two-wheeler since a vehicle was passing by. At that moment, two boys approached him and one of them pushed him off the two-wheeler while the other boy grabbed his bag and both of them fled towards Loni Road. He immediately got up and ran behind him. With the help from an unknown bike rider and he followed the two boys, however, after going a little further, near Shree Laxmi Traders, Loni Road, both the boys sat on a two-wheeler and driver began speeding away. As soon he reached near them, one of the boys showed him a pistol and threatened to shoot if he did not back off. The Complainant being fearful of his life, stopped chasing them. After he came back to his two-wheeler, he found a mobile phone lying nearby from which he then called the police. On the basis of his statement, the present FIR was registered.

2.3. During the course of investigation, the police apprehended and



interrogated one Mr. Asif @ Bhayia on the basis of a clue obtained through the mobile phone produced by Complainant. At the instance of Mr. Asif, police arrested two more persons namely, Mr. Shalib @ Shalim, the Applicant, and Mr. Faisal @ Munna.

2.4. During interrogation, the Applicant disclosed that he, along with the Mr. Asif, Mr. Faisal and other accomplices, hatched a conspiracy to rob the Complainant. The Applicant introduced one Mr. Arbaz to the other accused persons. Based on this disclosure, Mr. Arbaz was also arrested in the present case. Partial case property i.e. cash amounting to INR 6000/-, was recovered from the Applicant which was taken into the police possession through seizure memo. Further, Mr. Arbaz revealed that during the commission of crime, one Mr. Ajay, who is yet to be arrested, showed a “*Desi katta*” to the Complainant and later Mr. Arbaz had purchased the said “*Desi katta*” along with the live rounds, from Mr. Ajay. These were then recovered from Mr. Arbaz. On the instance of Mr. Faisal, the two-wheeler which was used in commission of crime was also recovered.

2.5. Additionally, a judicial Test Identification Parade for Mr. Arbaz and Mr. Faisal and the stolen bag were conducted and Complainant identified them correctly.

2.6. Further, the prosecution alleges that the Applicant has a long standing acquaintance with the co-accused, Mr. Faisal as both resided nearby area. The Applicant also knows Mr. Arbaz as they both hail from the same village and introduced Mr. Arbaz to the other accused persons and they informed them of the conspiracy to rob the Complainant.

2.7. The Applicant admitted that he had received a sum of INR 10,000/- as



his share from the robbed amount and partial case property i.e. INR 6,000/- was recovered on the basis of the disclosure made by the Applicant.

2.8. The Call Detail Records⁴ of the accused persons revealed that Mr. Faisal and the Applicant contacted each other before and after incident on 20th January, 2024.

2.9. As per the location chart, location of the Applicant's mobile was seen at Gandhi Nagar, Naveen Shahdara, Maujpur and Bihari Colony, Shahdara before and after the incident that occurred on 20th January, 2024.

3. In this background, counsel for the Applicant submits the following in support of his request for bail:

3.1. The Applicant has been falsely implicated on the basis of the disclosure statement of co-accused Mr. Asif, apart from which no reliable evidence has been gathered against the Applicant.

3.2. The communication between the Applicant and the co-accused person is also insufficient as they are known to each other.

3.3. As regards the alleged recovery of INR 6,000/- from the Applicant, it is contended that without any specific identification mark on the currency notes, recovery of amount alone is not sufficient to suggest the involvement of the Applicant in the present conspiracy.

3.4. Additionally, apart from the one public witness who is stated to have helped the Complainant, no other public witnesses have been cited despite the incident taking place at a busy road. This also casts doubt over the prosecution's story.

3.5. The Applicant has been in custody for nearly one year and since,

⁴ "CDRs"



investigation has been completed, no purpose will be served by keeping the Applicant in judicial custody.

4. Contrarily, Mr. Mukesh Kumar, APP for State, strongly opposes the bail application and submits that the facts outlined above clearly establish the Applicant's involvement. He highlights that the Applicant's previous bail requests have been rejected by the Trial Court on two occasions, as noted in orders dated 16th March, 2024 and 14th May, 2024, while a third bail application was withdrawn, as recorded in the order dated 30th September, 2024. Additionally, the bail application of a co-accused, Mr. Asif, was dismissed by the Trial Court on 15th October, 2024. Mr. Kumar further contends that the recovery of cash attributed to the Applicant serves as compelling evidence of his involvement. He emphasizes that the disclosure statements directly implicate the Applicant, reinforcing the argument that he should not be granted bail.

5. The Court has considered the facts and the submissions advanced. It is well established through catena of judgments by the Supreme Court that the object of granting bail is neither punitive nor preventative. The primary aim sought to be achieved by bail is to secure the attendance of the accused person at the trial.⁵

6. Pertinently, in the present case, the chargesheet has already been filed, indicating that the investigation is complete. Consequently, the Petitioner is no longer required for any ongoing investigation. The prosecution's case alleging the Petitioner's involvement primarily hinges on disclosure statements and the purported recovery of currency notes, both of which will

⁵ See also: *Sanjay Chandra v. CBI*, (2012) 1 SCC 40; *Satender Kumar Antil v. Central Bureau of*



need to be substantiated during the trial. As regards the currency notes allegedly recovered from the Applicant, the Court *prima facie* finds merit in the Applicant's contention that the recovered currency notes bear no specific identification marks linking them to the crime scene. This lack of distinctive evidence diminishes the probative value of the recovery. Additionally, the Applicant has no prior criminal record and his antecedents reflect a clean history. In light of these factors, the Court is inclined to enlarge the Applicant on bail, subject to appropriate conditions to ensure his presence during trial proceedings.

7. Therefore, the Applicant is directed to be released on bail on furnishing a personal bond for a sum of INR 50,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- c. The Applicant shall under no circumstance leave the bounds of Delhi NCR without informing the concerned IO;
- d. The Applicant shall appear before the Trial Court as and when directed;
- e. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the

Investigation, (2022) 10 SCC 51.



concerned IO/ SHO.

f. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

8. In the event of there being any FIR/DD entry/complaint lodged against the Applicant; it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

9. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

10. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

JANUARY 15, 2025

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