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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 4383/2024

NAZIM ALI

.....Petitioner

Through: Mr. Lakshay Joshi, Advocate.

versus

THE STATE GOVT. OF NCT OF
DELHI AND ANR.

.....Respondents

Through: Ms. Shubhi Gupta, APP for the State.
SI Harshvardhan, PS Farsh Bazar.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

06.02.2025

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1. This hearing has been done through hybrid mode.
2. The matter was listed for 05.02.2025, however, due to Delhi Legislative Assembly Elections, 2025, the same is taken up for hearing on 06.02.2025.
3. The present application under Section 439 of the Cr.P.C. (Section 483 read with Section 528 of the BNSS) seeks regular bail in case FIR No. 56/2023, under Sections 394/395/397/411/120B/34 of the IPC and Section 25 of the Arms Act, registered at P.S. Farsh Bazar.
4. The case of the prosecution as per the status report dated 16.01.2025 authored by SHO Farsh Bazar, is as under:-

“1- That, on 29.01.2023, information vide DD No 86A regarding **"Karkardooma Mod K Pass Headgewar Hospital Se Pehle Pul Per 3 Ladke Black Bike Per The Jinke Pass Pistol Thi Uski Butt Mar K Caller Se Pese Ka Thela Chin Kr Hedgewar Ki Taraf Bhage Hai"** was received at PS. On receipt of the same, the



spot was visited. At the spot, complainant Mohan Lal Kakkar s/o Sh Baldec Raj Kakkar R/o H No 5, Bahubali Enclave, Shahdra, Delhi. Age 51 Yrs was found present having injuries over Eyebrow and was in pain, injured was shifted to Hedgewar Hospital. The worker of complainant namely Abrar s/o Suleman R/o F-481, Gali o 16, Chand Bagh, Delhi, age 43 Yrs was also found present at the spot. Thereafter, the MLC No 465/23 of injured Mohan Lal Kakkar was collected. On the MLC of the injured, doctor reported "A/H/O Physical assault on 29.01.23 at 08.50 PM Abrasion on Rt side of eyebrow".

2- That, statement of injured complainant Pawan @ Pammi was recorded, stating therein that he doing the business of readymade garments business in Gandhi Nagar Market Shahdara, Delhi having 03 Shops in the same market and on daily basis he collects the amount form his aforesaid and went to his house alongwith Cash. On 29.01.2023 at around 08:30 PM, he alongwith his worker Abrar headed towards his house on his M/cycle. Abrar was driving the M/cycle, he sits on Pillion Seat and bag containing cash and some documents were kept by him in middle. During this course at around 08:50 PM when they reached at Puliya of Headgewar Hospital the M/cycle Borne assailants stopped their way by barricading their M/cycle in front of them. Thereafter, the alleged sitting on pillion seat approached him and pointed some pistol like weapon over his forehead and tried to snatched the Bag containing cash from him, he resisted for the same, on which the alleged sustained injuries over his eyebrow with the said weapon and robbed his bag containing cash, thereafter all the three assailants fled from the spot over their M/cycle. In this regard a case vide FIR No 56/23 u/s 392/394/397/34 IPC has been registered at PS Farsh Bazar.

3- That, during the course of investigation, complainant was further examined in the case and his supplementary statement was recorded, in his supplementary statement complainant revealed the number of M/cycle used in commission of crime as 8610. Thereafter, on analysis of CCTV Footage, the movement of two persons over Splender M/ Cycle No DL 5SCQ 8610 was captured chasing the M/cycle of complainant. The robbed amount stated by the complainant was 32 Lakhs with some invoices & his brother's



Rajesh Identify Card.

4- That, on 31.01.2023, accused Rahul s/o Dharmender R/o A-211, Gali No 9, Part-6, Sonia Vihar. Age 23 Yrs was overpowered from near GTB Hospital over M/cycle No DL5SCQ8610 (Captured in CCTV Footage). On the instance of accused Rahul, his associate viz. Akash @ Yogesh so Hardam Singh R/o A-358, Gali No 17, Part-VI, Sonia Vihar, Delhi. Age 25 Yrs was apprehended from Durgapuri Chowk.

5- That, on interrogation accused Rahul so Dharmender disclosed that around 10-15 days back he alongwith his associates Akash @ Yogesh and Vishal planned to rob a business man of Gandhi Nagar. Vishal informed in evening hours the afore-said person uses to carry big amount / cash on daily basis. To execute their plan Vishal also managed to join/ arrange some other persons with them. Thereafter, as per plan in the evening of 29.01.2023, they met at Khajuri Chowk with Vishal, Vishal was also accompanying by two other persons viz. Babu & Ashish Rastogi. Vishal informed that today he is carrying weapon too. After that, as per plan Vishal and Akash @ Yogesh were on one M/cycle and Ram Babu & Ashish Rastogi accompanied him in his M/cycle. After covering some distance at Zero Pusta they also met with their one other associate Ashu riding one M/cycle No 5344, Ram Babu sit over the M/cycle riding by Ashu. At Zero Pusta, they all planned about their position at the time of incident and that one Pehlwan will rob the Bag from the target and he will accompanied by two other persons who already reached at Krishna Nagar Metro Station. Thereafter, they all reached at Gandhi Nagar. Akash @ Yogesh and Vishal stationed over some distance from the shop of the target. Rahul and Ashish Rastogi stationed over Manohar Restaurant. At around 08:30 PM, Vishal informed Rahul from the mobile phone of Akash, that target left the shop alongwith one other person carrying Bag containing Cash and informed the M/cycle No of target as DL5SCH-2982, they started chasing the target and when target reached at Krishna Nagar Metro Station, Pehlwan and his associates started chasing the target and robbed the bag from the complainant having cash. 6- That, after obtaining sufficient evidences against the accused Rahul he was arrested in the present case. The M/cycle No DL 5SCQ 8610 used in



commission of crime was taken into police possession through Seizure Memo. The mobile phone used for conversation by the accused at the time of incident was also recovered and taken into police possession.

7- That, during the course of investigation, it came to known that total 9 accused were, actively involved in the commission of the offence, out of which 7 accused persons has been arrested and therefore section 395 IPC added in place of section 392 IPC and section 411/120B IPC & 25 Arms Act were also added in the present case.

8- That, during the further course of investigation it was revealed that the accused persons committed the present crime in 4 groups.

- 1st group of Aakash @ Yogesh & Vishal over bike no.DL5SCS4242 stationed near the shop of the complainant and providing information regarding the movement of complainant to their associates.
- 2nd group of accused Rahul and Ashish Rastogi over motorcycle bearing registration no. DL5SCQ8610 were stationed near Happy English school and were in continuous touch with their other associates and followed the complainant till Krishna Nagar metro station.
- 3rd group of Rambabu and Ansar @ Ashu were waiting near Manoharbhaji, Krishna Nagar and were getting information regarding the complainant from their associates of Group 1 & 2 and were sharing the information to Group no. 4 comprising of Wazid @ rehan @ Matu, Nazim and Salman.
- Group 4 of Rehan @ Wazid @ Matu, Nazim and Salman were waiting near the Krishna Nagar metro Station over a red appache bike and chased the complainant from Krishna Nagar Metro Station till Dr. Hedgewarki Puliya stopped them at 08:50 PM and robbed amount of Rs 32 lacs from the complainant on gun point.

9- That, on 03.02.2023, applicant / accused Nazim was arrested in the present case. Applicant / Accused Nazim along-with co-accused persons Rehan @ Matu @ Wazid and Salman chased the complainant from Krishna Nagar metro Station through their red appache bike and during the whole episode / incident Applicant /



Accused Nazim was continuously in touch with accused Ashu @ Ansar through his mobile phone, which is clearly evident from his CDR and location. Accused / applicant robbed the bag of complainant containing cash of Rs 32 Lakh at Dr. Hedgewarki Puliya.

10-That, the robbed amount of Rs **2.5 lakh were recovered** from the possession of applicant / accused Nazim out of Rs 3 lakh his share in robbed money.

11- That, during TIP proceedings, the complainant successfully identified the accused / applicant Nazim.

12-That, after completion of investigation, charge sheet in the present case has been filed before the Hon'ble Court and the same is pending trial before the Hon'ble Court of Sh.Arvind Bansal, ASJ, KKD, Shahdara, Delhi, the NDOH is listed for 14.02.2025 for prosecution evidence.”

5. Learned counsel appearing on behalf of the applicant submits that initially the case was registered under Section 392 of the IPC, however, on the basis of disclosure statements of the co-accused persons, the name of the present applicant alongwith others were added and FIR was converted into Section 395 of the IPC. It is pointed out that investigation in the present case is complete and out of 7 accused persons; except for the applicant, all have been released on bail. It is pointed out that one accused person, namely, Wajid @ Matu, who was given a similar role as that of the present applicant, has been released on bail by the learned Trial Court *vide* order dated 01.06.2023 and with respect to the said accused, it is submitted that a recovery of Rs. 3 lakhs had been shown by the prosecution. It is submitted that the trial in the present case is complete and chargesheet has been filed. It is further submitted that the applicant has been in custody since 04.02.2023 and has no previous involvements. Learned counsel for the applicant further submits that TIP proceedings in the present case were vitiated as the applicant was taken



to the police station in the complainant's car itself.

6. *Per contra*, learned APP for the State submits that the present applicant was identified by the complainant during the TIP proceedings. It is further submitted that an amount of Rs. 2.5 lakh was recovered from the present applicant.

7. Heard the learned counsel for the parties and perused the records.

8. As stated in the aforesaid status report, it is the case of the prosecution that the investigation unfolded after apprehension of co-accused Rahul alongwith a motorcycle, which was identified on the basis of a CCTV footage. It is noted that co-accused Rahul has been granted bail by a coordinate Bench of this Court in BAIL APPLN. 97/2024 dated 20.03.2024. In the aforesaid order granting bail, the learned coordinate Bench had observed that co-accused Wajid @ Rehan @ Matu, whose role has been shown similar to the present applicant with a recovery of Rs. 3 lakh, had already been granted bail by the learned Trial Court.

9. Investigation in the present case is complete and the chargesheet stands filed. The applicant has not been shown to be involved in any previous involvement. The applicant has been in custody since 04.02.2023, which brings his custody period to nearly about 2 years as of now. All other co-accused persons had been already granted bail.

10. In totality of the facts and circumstances, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 25,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

a) Applicant shall not leave the India without prior permission of the



Court.

b) Applicant shall appear before the Court as and when the matter is taken up for hearing.

c) Applicant shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.

d) Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses

11. The application is allowed and disposed of accordingly.

12. Pending application(s), if any, also stands disposed of.

13. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.

14. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.

15. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

FEBRUARY 06, 2025/nk/Pc *Click here to check corrigendum, if any*