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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4613/2024 & CRL.M.A. 37741/2024**
BHUSHAN @ BHAVISHAYAPetitioner

Through: Mr. Akash Godhvani, Mr. Sachin
Thakur and Mr. Prasanjit Singh
Rathore, Advocates

versus

STATE OF NCT OF DELHIRespondent

Through: Mr. Manoj Pant, APP for the State

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER
13.01.2025

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1. The present application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 (hereafter '*Cr.P.C.*') (corresponding Section 483 read with Section 528 Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter '*BNSS*')) has been filed on behalf of the applicant seeking grant of regular bail in case arising out of FIR bearing no. 771/2023, dated 22.11.2023, registered at Police Station Mundka, Delhi for offence punishable under Sections 394/397/34 of the Indian Penal Code, 1860 (hereafter '*IPC*').

2. Briefly stated, the facts of the present case are that on 21.11.2023, an information regarding MLC No. 7420/23 was received *vide* DD No. 108A at Police Station Mundka from Sonia Hospital Nangloi where the injured/complainant Chander Kishore was found admitted. Statement of the complainant was recorded wherein which he alleged that while he was



attending a call and walking on Firni Road, Mundka, three boys had come on a motorcycle. He alleged that the said boys had pushed him and robbed his mobile phone and when the complainant had tried to catch them, one of the robbers had attacked him with a knife and caused injuries to him. Accordingly, the present FIR was registered. During investigation, it was found that on 26.11.2023 two boys namely Aniket @ Golu and Mahesh @ Manish were caught on a motorcycle, which was found stolen in case E-FIR No. 19111/23, dated 19.11.2023, registered under Section 379 of Indian Penal Code, 1860 ('IPC') at PS Najafgarh, Delhi. The knife used in committing the robbery was recovered from co-accused Mahesh. AT the instance of Aniket and Mahesh, the present applicant was also arrested on 27.11.2023, and the mobile phone of the complainant was recovered from the house of present applicant. Accordingly, Section 411 of Indian Penal Code, 1860 ('IPC') was also added in the case. After completion of investigation, chargesheet was filed against the accused persons.

3. The learned counsel appearing for the present accused/applicant argues that the applicant has been falsely implicated in the present case. The learned counsel argues that merely because the applicant was allegedly driving the vehicle used in the commission of alleged offence, he cannot be kept behind bars. He further argues that there is no incriminating evidence on record to connect the applicant with the alleged offence. He also states that the role of the other accused persons is serious in nature and not of the present applicant, and therefore, the applicant be granted regular bail.

4. The learned APP for the State, on the other hand, argues that the applicant herein was driving the vehicle, which was used in the commission of alleged offence and that the mobile phone belonging to the complainant



was recovered from the home of the present applicant, at his instance. The learned APP, therefore, prays that since the witnesses are yet to be examined, and considering the seriousness of the offence, the present application be rejected.

5. This Court has heard arguments addressed by learned counsels for both the parties and has perused the material on record.

6. Having gone through the documents placed on record, this Court is of the opinion that though the learned counsel for the applicant repeatedly argued that the role of the applicant, even if considered on the basis of the documents filed on record, is insignificant, the offence in question had been committed by use of a knife, and the present applicant was driving the motor cycle in question, and the fact that the motor cycle belonged to some other person and not him or to any other accused, is not of much significance.

7. This Court also finds the argument of the learned counsel for the applicant, that the act of driving the motor cycle, even if considered as gospel truth for the sake of argument, is not serious and insignificant, unmerited. The offence in question had been committed with the help and aid of the applicant, where all the accused persons had played different roles. When the offence was being committed, the applicant, who was driving the motor cycle, had not only helped the other co-accused to reach the spot but also to escape from the spot after commission of the crime.

8. Moreover, the mobile phone in question, which had been robbed by the accused persons, was recovered from the home of the present applicant, at his instance. It is also significant to note that the complainant in this case has correctly identified the present accused during the Test Identification Parade (TIP) conducted in Central Jail, Tihar, as the same person who had helped the



other co-accused persons in the commission of the crime and who was driving the motor cycle in question when the offence was committed.

9. Considering the overall facts and circumstances of the case and the fact that material witnesses are yet to be examined before the learned Trial Court, no ground for grant of regular bail is made out at this stage.

10. The application is accordingly rejected.

11. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression on the merits of the case.

12. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 13, 2025/ns/A

[Click here to check corrigendum, if any](#)