



2025:DHC:421



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 21st January, 2025***+ **BAIL APPLN. 4666/2024**

SALMAN

.....Petitioner

Through: Mr. R.P.S. Bhatti, Advocate.

versus

THE STATE (GOVT OF NCT OF DELHI)

.....Respondent

Through: Ms. Meenakshi Dahiya, APP for State.

S.I. Kavish Rana, PS Laxmi Nagar, Delhi.

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. The present Bail Petition under Section 439 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C., 1973"*)/Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as "BNSS, 2023"*) read with Section 482 of Cr.P.C., 1973/Section 528 of BNSS, 2023 has been filed on behalf of the Petitioner seeking Regular Bail in FIR No. 236/2023 under Sections 395/397/342/411/120B/216A/34 of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC, 1860"*) and Sections 25/27/54/59 of the Arms Act registered at Police Station Laxmi Nagar, Delhi.

2. It is submitted in the Petition that the Petitioner had applied for Bail which has been dismissed by the learned Additional Sessions Judge *vide* Order dated 23.11.2024.

3. The grounds on which the Bail has been sought, are that the case of



2025:DHC:421



the prosecution is based against the Petitioner on the basis of disclosure statements of the other co-accused. Admittedly, the Petitioner was not present on the scene of crime. The recovery has been planted on him. The Chargesheet has already been filed before the learned Trial Court.

4. It is submitted that the Petitioner is in jail for the last one and a half year and the trial is likely to take long.

5. Therefore, the prayer is made that the Petitioner may be granted Regular Bail in the present FIR.

6. ***The Status Report has been filed on behalf of the State***, wherein it is submitted that the information regarding “house theft” was received vide DD No. 70A dated 24.05.2023 at the Police Station Laxmi Nagar, Delhi. Pursuant thereto, the Investigating Officer/S.I. Vivek along with Constable Rawal went to the spot where they met Complainant Radhika, on whose statement the FIR under Sections 380/454 of IPC, 1860 was registered.

7. Thereafter, the Supplementary Statement of Complainant Radhika was recorded and offences under Sections 392/397/342/34 of IPC, 1860 were substituted.

8. It is submitted that during the investigations, it was found that Pawan who was known to the Complainant Radhika’s family, along with four other co-accused persons, was involved in the house robbery and was seen guiding the accused to the place of incident after doing *rekki*, as is visible in the CCTV footage analysis.

9. On 02.06.2023, at the instance of Pawan, co-accused Arman Rathore @ Sunny was arrested from Khanna, Punjab of whom Pawan was a tenant 2-3 years back.

10. Arman Rathore @ Sunny, who was an old friend of the accused



2025:DHC:421



Salman as five years back, they both used to drive the cab together in Delhi, led to his arrest from his Flat Sunder Ka Makaan, Naya Bans Village, Lane No. 2, Sector-15, Noida, Uttar Pradesh.

11. It is submitted that the recovery of some stolen cash and gold items was made from all the accused persons.

12. The role of the Petitioner is that he was involved in the conspiracy of robbery. He sheltered/harboured all the four co-accused at his flat for hatching the conspiracy to commit robbery. After the commission of the offence of robbery, cash amounting to Rs. 1,50,000/- and gold jewellery were recovered from his flat which he disclosed had been given to him by accused Arman Rathore @ Sunny from the looted articles, for helping in harbouring them.

13. After completion of investigations, the Chargesheet has been filed and the Charges had been framed against the accused persons *vide* Order dated 02.12.2024 and the case is at the stage of Prosecution Evidence.

14. In the end, it is submitted that the Petitioner has committed the offence in a daring manner. The offence committed is of serious nature and there is a possibility of the Petitioner jumping the Bail to avoid punishment. If the Bail is granted to the Petitioner, he can commit the same offence and threaten the Complainant, Radhika.

15. **Submissions heard and the record perused.**

16. As per the prosecution case, the role of the accused defined is that prior to the commission of the offence, a meeting to hatch the conspiracy of dacoity was held in the house of the accused, Salman. He admittedly was not on the scene of crime on the date of incident. However, he was found to be in constant touch with the co-accused, as established by the CDR Call



2025:DHC:421



Details. Furthermore, subsequently recovery of Rs.1,50,000/- and part of the stolen jewellery, was made from his possession.

17. The Charges have been framed against him under Section 120B read with Section 365 of IPC, 1860 and also for harbouring the co-accused punishable under Section 216A of IPC, 1860 and under Section 412 of IPC, 1860 for retaining/receiving stolen property in dacoity. The Charges have already been framed against the Petitioner and other co-accused *vide* Order dated 02.12.024.

18. There are serious charges of conspiracy to commit dacoity, and that he throughout had remained in contact with them as established by the CDR Call Details. The complexity in the crime is further corroborated by the recovery of the part of the goods stolen in the dacoity. At this stage, considering the gravity of the offence and that the Prosecution Witnesses are yet to be examined, it is not a fit case for grant of Bail.

19. The Bail Application is hereby dismissed and disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 21, 2025
S.Sharma/RS