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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 123/2025

MAZID SALMANI @ VAJID

.....Petitioner

Through: Mr. Birendra Bikram, Adv.

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP for State with
SI Deep Sharma, PS. NDRS.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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18.02.2025

1. The present petition has been filed under Section 439 CrPC read with Section 483 BNSS seeking regular bail in connection with FIR No. 88/2019 under Sections 323/342/363/365/384/394/397/120B/34 IPC registered at Police Station New Delhi Railway Station.
2. The case of the prosecution is that the complainant and his son came to New Delhi Railway Station by Bhopal Rajdhani Train. When they booked a cab to go to the airport from the railway station, the driver stopped his car near Moti Bagh and went outside and then three unknown persons entered the cab and kidnapped the victim and his son. This led to the registration of the aforesaid FIR.
3. The learned counsel for the petitioner submits that in the present case five persons namely, Hashim, Sachin Paswan, Abhishek and Satavir Pandey and the present petitioner, have been arraigned as an accused.
4. He submits that in so far as the Satavir Pandey is concerned, he has



been declared proclaimed offender. However, other co-accused namely Hashim, Sachin Paswan and Abhishek have been already enlarged on bail.

5. He submits that petitioner's role is similar to that of Abhishek, in as much it is the case of the prosecution that the present petitioner along with Abhishek and Satavir Pandey had entered into the cab near Moti Bagh when Hashim had stopped the car.

6. He invites attention of the Court to the order dated 22.05.2024 passed by this Court in BAIL APPLN. 2039/2022, to support his contention that Abhishek has already been granted bail by this Court.

7. He submits that the petitioner is in custody since 30.11.2019 and has already been incarcerated for a period of 05 years, 01 month and 29 days as on 24.01.2025, as per the nominal roll placed on record.

8. He further submits that the matter is now fixed for directions before the learned Trial Court on 24.03.2025. It is his contention that the matter has been listed for recording of complainant's statement as many as 11 times, however, the complainant had come only on 05 occasions and for the said reason that the trial got delayed. He submits that the petitioner custody is otherwise, not required. He, therefore, urges the Court that the petitioner may be enlarged on bail.

9. *Per contra*, Mr. Aman Usman, the learned APP for the State invites attention of the Court to the nominal roll to contend that the petitioner is involved in 05 other serious offences and the nominal roll reveals that he is on bail only in respect of one of the case.

10. He further submits that the role of the present petitioner is different from those of other co-accused, in as much as, the offence under Section 397 IPC has been invoked only against the present petitioner.



11. He further submits that the recovery of the offence weapon was made from the present petitioner. He, therefore, urges the Court that the bail petition of the petitioner may be dismissed.

12. In rejoinder, the learned counsel for the petitioner clarifies that the petitioner is already on bail in respect of other 04 cases. Insofar as the recovery alleged against the present petitioner is concerned, he submits that in the present case no recovery has been made and the pistol which is stated to be recovered from the present petitioner was recovered from him in respect of FIR No. 333/2019 in which the petitioner is already on bail. He further submits that it is incorrect to say that offence under Section 397 IPC has been invoked against the petitioner only, in as much as other accused have been implicated for the same offence by invoking Section 34 IPC.

13. I have heard the learned counsel for the petitioner, as well as, the learned APP for the State and have perused the record.

14. It is a matter of record that the petitioner is in custody since 30.11.2019 and has been incarcerated for a period of 05 years, 01 month and 29 days as on 21.01.2025. The nominal roll shows the overall conduct of the petitioner is satisfactory besides his conduct during the last one year.

15. It is not in dispute that out of the 05 accused arraigned in the present case, one of the co-accused namely, Satavir Pandey has been declared as proclaimed offender and other three co-accused, namely Hashim, Sachin Paswan, as well as, Abhishek, have been granted bail.

16. It also appears that the complainant has appeared only on 05 occasions despite having been summoned for 11 dates and the trial is getting delayed. The petitioner cannot be kept in custody for an indefinite period to await the conclusion of trial which is likely to take time since the



prosecution has cited as many as 33 witnesses and till date only 02 witnesses have been examined. This Court cannot lose sight of the fact that at this stage there is a presumption of innocence also in favour of the petitioner.

17. Considering the aforesaid circumstances and regard being had to the custody period of the petitioner, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is admitted to bail subject to his furnishing a Personal Bond in the sum of Rs. 15,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/ACJM/Duty JM, further subject to the following conditions:

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- b) Petitioner 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.
- c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.

18. It is made clear that henceforth if the petitioner is found involved in any other crime, the prosecution shall be at liberty to move for the cancellation of the present bail of the petitioner.

19. The petition stands disposed of.

20. It is clarified that the observations made herein above are only for the limited purpose of deciding the present bail application and the same shall not be construed as an expression of opinion on the merits of the case.

21. Copy of the order be forwarded to the concerned Jail Superintendent



for necessary compliance and information.

22. Order *dasti* under signatures of the Court Master.
23. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

FEBRUARY 18, 2025/dss