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

+ **BAIL APPLN. 2437/2024**

WAHAJ MIRZA@ FARI

.....Petitioner

Through: **Mr. Rashid Hashmi, Advocate.**

versus

STATE OF NCT OF DELHI

.....Respondent

Through: **Mr. Tarang Srivastava, APP with
SI Deepak, P.S. Kotwali.**

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **20.01.2026**

1. The applicant seeks regular bail in connection with FIR No. 579/2023 dated 17.07.2023, registered under Sections 356/379/34 of the Indian Penal Code, 1860 ["IPC"], at Police Station Kotwali, District North, New Delhi.
2. Upon completion of investigation, a chargesheet was filed under Sections 392/397/411/34 of the IPC. However, I am informed that the charge under Section 397 of IPC has been dropped, as far as the applicant is concerned, by order on charge dated 17.11.2023. The applicant is facing trial under Sections 392/411/34 of the IPC.
3. I have heard Mr. Rashid Hashmi, learned counsel for the applicant, and Mr. Tarang Srivastava, learned Additional Public Prosecutor for the State.
4. Notice was issued to the complainant, pursuant to order dated



16.07.2024. On 27.01.2025, the following statement was recorded on behalf of the complainant:

“Mr. Ajay Kumar Chopra, learned counsel who is present on behalf of the complainant (alongwith the complainant), submits that though the complainant has supported the prosecution case in his court deposition, today he is not opposing the grant of bail to the petitioner since they are negotiating a settlement regarding refund of the money that was subject matter of the robbery.”

5. The complainant has thereafter not appeared in these proceedings since.

6. The State has filed a status report in which the facts of the case are narrated as follows:

- a. The FIR was registered on the statement of the complainant, who was working as a Marketing and Collection Agent in a private concern, namely Vaibhav Overseas Company, situated at 630B, near NDPL office, Burari, Delhi.
- b. The complainant stated that, on 17.07.2023, he had collected a sum of Rs.2,00,000/- in cash, on behalf of his employer, from one Abdul Rahman/Rehan. He was on his way to deliver the said amount to one Asish Jayrath in Chandni Chowk, Delhi. At a location near Esplanade Road, Chandni Chowk, his bag containing the cash was snatched by the applicant and two associates, who fled from the spot.
- c. During the course of investigation, the complainant asserted that the total amount stolen was, in fact, Rs.14,00,000/-, and that a pistol-like weapon was used during the commission of the offence.
- d. The applicant and two associates, one of whom is his brother, and



the other a child in conflict with law, were arrested on the basis of information received on 18.07.2023. The applicant was arrested on 19.07.2023.

- e. Rs.5,50,000/-, including Rs.1,50,000/- from the present applicant, out of the aforesaid amount of Rs.14,00,000/-, was recovered from the three accused.
 - f. The applicant refused to undergo Test Identification Parade proceedings on 22.07.2023.
 - g. The charge sheet has been filed, and the case is at the evidence stage.
7. The applicant approached the Sessions Court for grant of bail, which was rejected by an order dated 31.05.2024.
8. In support of the present application, Mr. Hashmi submits as follows:
- a. The applicant has already been in judicial custody for more than two and a half years.
 - b. All material witnesses, including the complainant, have already been examined.
 - c. The present applicant has not been charged under Section 397 of the IPC at all.
 - d. The evidence of the complainant, to the extent that the robbery is stated to be of Rs.14,00,000/-, is inconsistent with the complaint's original statement, which concerned robbery of Rs.2,00,000/-. Even in the evidence, the complainant stated that he has not been able to identify the recovered currency notes.
9. Mr. Srivastava, on the other hand, opposes the grant of bail on the



ground of seriousness of the offence, which includes an allegation of robbery at gunpoint, albeit against the co-accused. He draws my attention to the evidence of the complainant recorded by the Trial Court, which supports the case of the prosecution. He further submits that the applicant is also involved in another criminal case, being FIR No. 172/2019, registered under Sections 308/34 of the IPC, at Police Station Chandni Mahal, in which he is currently on bail.

10. Having heard learned counsel for the parties, I am of the view that this is an appropriate case for grant of bail to the applicant for the following reasons:

- a. While the allegations against the applicant are serious, to the extent that they involve a case of robbery, the applicant has not been charged with the offence under Section 397 of the IPC, which involves the use of a weapon; that charge has been made only against the co-accused.
- b. The initial complaint, as noted in the FIR, pertained to theft of a bag containing Rs.2,00,000/-, whereas the complainant made a supplementary statement later on the same day i.e., 17.07.2023, stating that the stolen amount was, in fact, Rs.14,00,000/-. While this is a matter for the Trial Court to consider at the appropriate stage, Mr. Hashmi is right in pointing out to a *prima facie* inconsistency.
- c. The complainant and all material witnesses have already been examined in the Trial Court. There is no eye-witness or other public witness remaining for examination. In fact, 9 witnesses out of 15 have already given evidence, and only official witnesses



remain to be deposited.

- d. The nominal roll placed on record shows that the applicant's period of custody as on 14.08.2024 was 1 year and 26 days. The applicant has thus been in custody for a period of approximately two and a half years. His jail conduct has also been certified as satisfactory.
- e. The applicant's involvement in one other case, in which he is on bail, does not, in my view, constitute sufficient ground to deny bail to which he is otherwise entitled. This position has been affirmed by the Supreme Court in *Prabhakar Tewari v. State of U.P.* [(2020) 11 SCC 648, paragraph 7], *Ayub Khan v. State of Rajasthan* [2024 SCC OnLine SC 3763, paragraph 10], and more recently in *Abhimanue v. State of Kerala* [2025 SCC OnLine SC 2037, paragraph 23].

11. In view of the aforesaid, the applicant is admitted to regular bail in connection with FIR No. 579/2023 dated 17.07.2023, registered under Sections 356/379/34 of the IPC, at Police Station Kotwali, District North, New Delhi, subject to his furnishing a bail bond in the sum of Rs. 25,000, with one surety of the like amount, to the satisfaction of the Sessions Court, and subject to the following conditions:

- a. The applicant shall not leave the National Capital Territory of Delhi without the prior permission of the Sessions Court.
- b. The applicant shall furnish his permanent address to the Sessions Court, as well as the address at which he is residing during the pendency of the case. The applicant shall also intimate the Investigating Officer and file an affidavit before the Sessions Court, in the event of any change in his residential address.



- c. The applicant shall appear before the Sessions Court as and when the matter is taken up for hearing.
 - d. The applicant shall provide his mobile number to the concerned Investigating Officer and the Station House Officer, which shall be kept in working condition at all times. The said mobile number shall not be switched off or changed without prior intimation to the Investigating Officer during the pendency of the trial.
 - e. The applicant shall not commit any offence during the period of his release.
 - f. The applicant shall not, directly or indirectly, make any inducement, threat, or promise to any person acquainted with the facts of the case, shall not contact the complainant or any prosecution witness, and shall not tamper with the evidence of the case in any manner whatsoever.
12. The bail application is disposed of in the above terms.
13. It is clarified that any observations made in the present order are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings, nor be construed as an expression of opinion on the merits of the case.
14. A copy of this order be communicated to the concerned Sessions Court and the concerned Jail Superintendent for information and necessary compliance.

PRATEEK JALAN, J

JANUARY 20, 2026
‘Bhupi/KA’/