
(2023) 05 DEL CK 0208
In the Delhi High Court
Case No : Bail Application No. 1270 Of 2023

Javed	Vs	APPELLANT
State Govt Of Nct Of Delhi		RESPONDENT

Date of Decision : 29-05-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 392

Citation : (2023) 05 DEL CK 0208

Hon'ble Judges : Dinesh Kumar Sharma, J

Bench : Single Bench

Advocate : Panna Lal Sharma, Vivek Sharma, Izhar Ahmad, Meenakshi Dahiya

Final Decision : Disposed Of

Judgement

Dinesh Kumar Sharma, J

1. Present petition has been moved seeking regular bail in case FIR No.69/2019 dated 02.02.2019 registered under Sections 392/34 IPC at PS Welcome, North East, Delhi.

2. The case has been set up by the prosecution to be read as under:

a. Brief facts of the case are that above mentioned case FIR was registered at PS Welcome on 02/02/2019 on the statement of complainant Amar kushwaha in which he stated that on 02.02.19 at about 5 AM he along with his sister-in-law Shilpi came from his native village Hardoi in a bus and reached kanti nagar near narela. Thereafter they hired an auto rickshaw for maujpur and when at about 5.30 am they reached at Muskan chauk, two boys came on a motorcycle and put their motorcycle in front of the TSR. The pillion rider caught hold of the auto driver by his collar and he started abusing him. Thereupon, the pillion rider came and put his knife on the neck and asked the victim to give whatever he was having with him. He put his hand in the pocket of the pant he was wearing and took out his mobile phone. He also took out 2000/-from his pocket and gave it to the accused person. Thereafter, the said boy put a knife on the neck of his sister-

in-law and asked her to give him whatever he was having. His sister-in-law gave her earrings, nose pin, and Rs 1000/-cash to the said robber. Thereafter the said boy handed over the robbed articles to co-accused. In the meantime, one auto rickshaw came from behind and he started shouting after seeing them on which public person also came there and apprehended one of the robber who robbed articles from them on the point of knife and the auto driver also took out the key of motorcycle of the robbers. The driver of the said motorcycle along with robbed property managed to run away.

b. The co-accused Javed who was driving the motorcycle and also indulge in committing robbery was arrested on 15.02.2019 in the present case and currently running in judicial custody. Witness also participated in the TIP proceedings and identified the accused Javed.

c. The motorcycle bearing registration no- DL 5S-BR-7042 wanted in the case E-FIR No-3868/19 PS welcome was found from Jakir@Chuha(other accused) who was using the same in the commission of the offence of the robbery in this case.

d. Previously, three regular bail applications of the accused Javed have been dismissed by the Hon'ble Court vide order dated 03.03.2023, 20.01.20 and 03.06.2019 till date.

e. Further, the chargesheet of the above case has been filed before the Hon'ble court and charge is framed and now this case is at the stage of prosecution evidence. Statements of public witnesses have also been recorded.

f. That at present the accused is facing total two criminal cases bearing FIR no-44/2018, U/s 25/54/59 arms act and 41 1/482 IPC, PS GTB Enclave and the present case bearing FIR no-69/19 u/s 392/397/34 IPC PS Welcome.

3. Learned counsel for the petitioner submits that petitioner is in custody since 15.02.2019. It has further been submitted that material witnesses have already been examined. Therefore, there is no possibility of threatening or tampering the witnesses.

4. Learned APP for the State has opposed the application on the ground that it is a serious, heinous offence and accused is also involved in two other cases.

5. I have considered the submissions. I have considered the grant of parameters for grant of bail in non-bailable offence are very well settled. The detention during the trial cannot be termed as punitive detention. The Court at this stage cannot meticulously examine the facts of the case. The petitioner is in custody since for the last four years. Taking into the prolonged detention, the petitioner is admitted to bail on furnishing a personal bond in a sum of Rs. 15,000/- (Rupees fifteen Thousand Only) along with a surety of the like amount subject to the satisfaction of the Ld. Trial court on the following conditions:-

a) the Petitioner shall under no circumstances leave India without prior permission of the Court concerned;

- b) the Petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
 - c) the petitioner shall not temper with the evidence;
 - d) the Petitioner shall provide his/her mobile number(s) to the Investigating Officer and keep it operational at all times; and
 - e) In case of change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.
6. In view of the above, the present bail application is disposed of.
7. Le the copy of order be sent to the Jail Superintendent for information and compliance.