

(2016) 01 DEL CK 0270

In the Delhi High Court

Case No : Bail Application No. 2761 of 2015

Javed

APPELLANT

Vs

State of NCT of Delhi

RESPONDENT

Date of Decision : 18-01-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 174A, Section 34, Section 379, Section 392,
Section 397

Citation : (2016) 227 DLT 18 : (2016) 1 JCC 448 : (2016) 5 RCRCriminal 595

Hon'ble Judges : P.S. Teji, J.

Bench : Single Bench

Advocate : M. Shamikh and Ankur Tuli, Advocates, for the Appellant; Ashish Dutta, APP, for the Respondent

Final Decision : Disposed off

Judgement

P.S. Teji, J.—1. By this petition filed under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr.P.C), the petitioner is seeking bail in a case registered as FIR No. 72/2012 under Section 392/397/34/174A of IPC, registered at Police Station Kirti Nagar. Delhi. In nutshell, the case of the petitioner is that his name was disclosed by the main accused - Arshad, who was arrested at the place of the incident, which took place on 13th March 2012 at about 2.30 a.m. It is alleged that four young men came in Mahindra Pickup vehicle bearing registration No. HR-74-5497 and parked it adjacent to the truck of the complainant - Imran. It is alleged that two young men held the complainant at knife point and another young man of 25/26 years removed both the rear MRF tyres alongwith rim of truck of the complainant. It is further alleged that other young men of about 20/25 years removed rear Apollo tyres of his truck HR-63-0016 alongwith its rim and robbed mobile No. 9720013995, make Kormla Black colour, Sonata wrist watch and Rs. 11,000/- from Kala and Rs. 10,000/- from the complainant at knife point. All the accused persons, upon seeing the police, tried to flee from the scene in their Mahindra Pickup after

loading all the four tyres, but the accused Arshad., who held the complainant captive at knife point got arrested from the spot. During investigation, he disclosed the names of other co-accused persons, including the petitioner herein.

2. The main accused - Arshad is stated to have been released on bail vide order dated 8th October 2013 and the other co-accused -Shaukat, whose name was also disclosed by the main accused -Arshad is also stated to have been released on bail on 22nd March 2014.

3. Mr. M. Shamikh, Advocate appearing on behalf of the petitioner argues that the petitioner's bail application was rejected by the learned Additional Sessions Judge - 05, (West), Delhi, primarily on the ground that the petitioner was declared proclaimed offender and was arrested on 11th November 2014. In this regard, counsel for the petitioner contended that the petitioner was never absconding but was lodged in Bhondsi Jail, Gurgaon in another case, i.e. FIR No. 133/13 under Section 379 of IPC, Police Station Badshahpur. Haryana. Counsel for the petitioner further contended that the petitioner is in custody for the last one year and the main accused -Arshad as well co-accused - Shaukat have already been released on bail, therefore the petitioner ought to be released on bail on the ground of parity.

4. Mr. Ashish Dutta, Additional Public Prosecutor appearing on behalf of the State opposed the aforesaid contentions raised by counsel for the petitioner and also filed a status report. It is submitted that the petitioner had refused his TIP and he is involved in 14 other criminal cases and that the other co-accused - Bhoora is still absconding and has been declared proclaimed offender on 12th July 2012: It is further submitted that the prosecution witnesses -complainant and Kala have fully supported the prosecution version. It is further submitted that out of 13 prosecution witnesses, 6 witnesses have already been examined. Therefore, the petitioner be not released on bail.

5. I have heard the submissions made by counsel for the petitioner and the learned Additional Public Prosecutor for the State and also gone through the material placed on record.

6. Upon careful scrutiny of the case what this Court observes is that the charge sheet in this, case has been filed; petitioner is in custody for the last one year; the other co-accused - Arshad and Shaukat have already been granted bail in this case; and the fact that no recovery is made from the petitioner.

7. In view of the facts and circumstances of the present case, this Court is inclined to grant bail to the petitioner - Javed in this case. Accordingly, it is ordered that the petitioner - Javed be released on bail subject to furnishing his personal bond in the sum of Rs. 50,000/- with two sureties of the like amount to the satisfaction of the concerned Court. The petitioner is directed not to influence or threaten or even contact any prosecution witness in any manner and shall not leave the country without prior permission of the concerned Court.

8. Needless to say that anything observed in this petition, shall not have any bearing on the merit of the case during trial.
9. With aforesaid directions, the bail application stand disposed of. Dasti.