

(2019) 11 DEL CK 0595

In the Delhi High Court

Case No : Bail Application No. 2717 Of 2019

Laxmi Narayan Sharma

APPELLANT

Vs

State Of Nct Of Delhi

RESPONDENT

Date of Decision : 19-11-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 82, 161, 439
Indian Penal Code, 1860 — Section 379, 380

Citation : (2019) 11 DEL CK 0595

Hon'ble Judges : Brijesh Sethi, J

Bench : Single Bench

Advocate : Ravi Ranjan, Semeer Sidhar, G.M.Farooqui, Abha Malhotra

Final Decision : Dismissed

Judgement

Brijesh Sethi, J

1. Vide this order, I shall dispose of the bail application u/s. 439 CrPC filed by the petitioner Laxmi Narayan Sharma in FIR No. 000160/2019, u/s. 379 IPC, P.S. Lahori Gate, Delhi.

2. Ld. Counsel for the petitioner has prayed for bail on the ground that petitioner is innocent and falsely implicated. He has clean antecedents. It is submitted that the present FIR was registered on 27.06.2019 on the complaint of one Mr. Vimal Kumar who was working as a cashier in the shop of one Mahavir Singh against unknown persons alleging that a bag containing some important documents and a sum of Rs. 12 Lakhs was stolen from his room at H.No. 4712, 3rd Floor, Cloth Market, Fatehpuri, Delhi on 20.06.2019 at around 5.00 to 7.00 a.m. As per the complaint, the petitioner was sharing accommodation with the complainant as both of them were working in the shop of Mahavir Singh. The petitioner was arrested by the police on 28.07.2019 when he came to Delhi from his native place Bikaner.

3. It is next submitted that co-accused Abhishek Singh in his disclosure

statement has disclosed that the petitioner has informed him about the cash and accordingly they had planned to commit theft along with co-accused Anshul Rathoor @ Monti, Rashid, Vijender @ Viju, Vicky Panwar and Lateer. It is further submitted that after almost one month from the date of registration of the FIR, statement of complainant under Section 161 Cr.P.C. was recorded on 18.07.2019 wherein he made improvement and stated that when he and his friends checked the room on 29.06.2019, an amount of Rs. 79,31,000/- was found to be missing from a white bag kept in the room for purchase of grains. Thus, it was ultimately alleged on 18.07.2019 that a total amount of Rs. 91,31,000/0- was stolen. The name of the petitioner had appeared there for the first time.

4. It is next submitted that in the charge-sheet, it is alleged by the police that it has recovered an amount of Rs. 21,500/- from the co-accused Abhishek Singh out of the entire stolen amount of Rs. 91,31,000/-. Police, in fact, has concocted a story that huge cash amount was kept by Mr. Mahavir Singh to purchase the grains even in complete violation of the finance Bill, 2017 which prohibits cash transaction of more than 2 Lakhs. The police has acted as henchmen of Mr. Mahavir Singh during the entire investigation and arrested several persons including the petitioner and extorted money from them on the pretext of investigation of the present case. It is further submitted that in daily newspaper of Bikaner, Rajasthan dated 02.07.2019 and 03.07.2019, a news was flashed that the policemen of Delhi Police posted with PS Lahori Gate, Delhi were involved in unlawful extortion from the youths of Churu on the pretext of investigation of the E-FIR No. 000160/2019. The additional Superintendent of Police, Anti Corruption Bureau, Churu had formed a team and arrested the policemen of Delhi Police and later on they were admitted to bail by the High Court of Rajasthan at Jodhpur on 08.08.2019.

5. It is next submitted that bail application of the petitioner was dismissed by the Ld. MM, Tis Hazari Courts vide order dated 23.08.2019 in the most unlawful manner and by wrongful observing that the allegations made in the FIR were so grave. Aggrieved by the impugned order of Ld. MM, petitioner filed a bail application before the Ld. ASJ, Tis Hazari but Ld. ASJ ignored all the facts of illegal extortion by the police and dismissed the bail application on 15.10.2019 in the most mechanical manner and without application of judicial mind.

6. It is lastly submitted that petitioner is a poor man and has nothing to do with the alleged offence. Petitioner is languishing in jail since 28.07.2019 even when the investigation of the case qua him is over and the charge-sheet has been filed. It is, therefore, prayed that petitioner be released on bail, in the interest of justice.

7. Ld. APP for the state has opposed the bail application on the ground that allegations against the petitioner are serious in nature. Petitioner is involved in the offence of theft of Rs. 91,31,000/- along with other co-accused persons. He has, therefore prayed for dismissal of the bail application. It is further submitted that investigation of the present case was assigned to investigating officer on

07.07.2019 and he had, thereafter, recorded the statement of informant on 18.07.2019.

8. I have considered the rival submissions. As per prosecution version, the present case vide E-FIR no 000160/2019, u/s 379 IPC was registered online on the complaint of Vimal Kumar s/o Mangi Lal, R/o 4712, 3rd floor, Cloth Market, Fatehpuri Delhi with the allegations of theft of Rs. 12 lacs. During investigation detailed statement of complainant under Section 161 Cr.P.C. was recorded in which he has stated that he is working as a cashier in Inderpuri Courier Company at 320, 2nd Floor, Kucha Ghashi Ram, Delhi. On 19.06.2019, he had put a parcel of Rs. 12 lac in his room and the next day he found that the same has been stolen from there and he got the online FIR lodged but subsequently on checking he came to know that Rs. 79,31,000/-(Rupees Seventy Nine Lac Thirty One Thousand) which were kept to purchase grains have also been stolen. Thus, a total of Rs. 91,31,000/-(Ninety One Lac Thirty One Thousand) was got stolen. The complainant further alleged that one person Laxmi Narayan @Leeladhar S/o Parmeshwar R/o Vill-Hemasar, Tehsil-Dungar Garh, Distt. Bikaner who was working there and was living with them has committed the said theft. Accordingly, the offence under Section 379 IPC was converted into 380 IPC. During investigation, the owner of the courier company Sh. Mahaveer Singh provided the legitimate source i.e. bills/invoices of the alleged stolen money. During investigation, the CCTV footage of the area were checked and some of the suspects were shortlisted and their photographs were developed, the DVR containing the CCTV footage was taken into police possession and sent to FSL for expert opinion. It is further the case of the prosecution that during investigation accused Abhishek Singh S/o Jitender Singh, R/o Village Jasraspur, PS Ratan Nagar, District Churu, Rajasthan was arrested from Jaipur on 27.07.2019 and disclosed that Laxmi Narayan @ Leeladhar (petitioner) had informed them about the cash and they had committed theft of an amount of around 91 Lacs along with the co-accused Anshul Rathor @ Monti, Rashid, Vijender @ Viju, Vicky Panwar & Lateef and later on divided the amount amongst them. During investigation, one witness Bansi Lal Sharma @ Lal Chand stated that he was there in the room on 20.06.2019 around 5.45 am where 5-6 persons had come along with Laxmi Narayan @ Leeladhar and Leeladhar had introduced them as his relatives but soon thereafter when he had come from the washroom, all those people had disappeared and Vimal, the cashier informed him that the cash has been stolen. During investigation efforts were made to recover the case property but the same could not be recovered due to non-cooperation of the petitioner.

9. It is a settled law that while granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, the circumstances which are peculiar to the accused, his role and involvement in the offence, his involvement in other cases and reasonable apprehension of the witnesses being tampered with. In view of the fact that other co-accused persons namely Anshul Rathor @ Monti s/o Laxman Singh @ Lal Sinhg, Rashid Khan S/o

Ummid Khan, Vijender @ Viju S/o Deendayal, Vicky Panwar @ Samsher, Lareef and Fariyad Khan S/o Mohmood Khan Dilawarkhan are absconding and proceedings under Section 82 Cr.P.C. against them have been initiated and out of the stolen amount, only Rs. 21,500/- have been recovered so far and the remaining amount is yet to be recovered, no grounds for grant of bail to the petitioner are made out at this stage. The bail application is, therefore, dismissed and stands disposed of accordingly.