
(2019) 01 DEL CK 0141

In the Delhi High Court

Case No : Bail Application No. 3073 Of 2018

Mickey

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 16-01-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 392, 397, 411

Citation : (2019) 01 DEL CK 0141

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : T.S.Varun, Kusum Dhalla

Final Decision : Disposed Off

Judgement

Sanjeev Sachdeva, J

1. Petitioner seeks regular bail in FIR No. 336/2016 under Sections 392/397/411/34 of the Indian Penal Code, 1860 registered at Police Station G.T.B.Enclave.

2. The allegations in the FIR are that the complainant, who is employed in a factory where work of copper wires takes place, was on duty when one of the co-accused Gautam stayed behind in the morning on the ground of working over time. It is alleged that at about 9.36 AM there was a knock at the gate of the factory and Gautam looked outside and stated that some of his acquaintances had come. Gautam opened the door and two persons walked in with muffled faces. It is alleged that they fought with the complainant, pushed him into an inner cabin and overpowered him. One of the persons was holding a country made pistol and the other was holding a knife. Person holding the country made pistol pointed the pistol at him on which he got scared. Then the other person holding the knife along with other accused Gautam started removing the goods of the factory. 1500 kgs of wires and scrap was removed. Petitioner is alleged to be the one who is alleged to have brandished the knife and removed the goods.

3. Learned APP opposed the Bail and submits that there has been recovery from the house of the petitioner of some of the stolen articles as also some scrap and money and the weapon of offence was also recovered on his disclosure.
4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated. Learned counsel submits that the CCTV footage relied on by the prosecution does not corroborate the version of the alleged offence. Learned counsel submits that as per the allegation in the FIR two accused, petitioner and Ashish are alleged to have entered the premises and committed the offence. Learned counsel submits that the CCTV footage shows that the two accused did not enter the premises together and they were not in muffled face or carrying any weapon.
5. Learned counsel further submits that the offence is alleged to have been committed at approximately 9.30 am in the morning when the locality was full of other workers etc and there is no possibility of someone committing the offence in open. Learned counsel submits that there was enough time during the night when the co accused Gautam was on duty and the offence could have been committed at that point of time.
6. Learned counsel further submits that petitioner has been in custody since 24.09.2016 and the trial is likely to take some time.
7. Learned counsel for the petitioner submits that co accused Gautam has already been admitted to bail by this Court by order dated 10.12.2018 in Bail Appln.2011/2018 titled "Gautam Chauhan vs. State".
8. Without commenting on the merits of the case and keeping in view the totality of facts and circumstances and also the fact that petitioner has been in custody for over two years and four months, I am satisfied that the petitioner has made out a case for grant of regular bail.
9. Accordingly, on petitioner furnishing a bail bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Trial Court. Petitioner shall be released on bail, if not required in any other case. Petitioner shall not do anything which may prejudice either the trial or the prosecution witnesses.
10. The petition is disposed of in the above terms.
11. Order Dasti under signatures of the Court Master.