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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3474/2021**

SAJID KHAN

..... Petitioner

Through: Mr.Joginder Tuli, Ms.Joshini Tuli,
Ms.Ishu Sharma, Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr.M.P. Singh, APP for the State
with SI Sunil Kumar, P.S.: Khajuri
Khas.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

% **30.05.2022**

1. This is an application filed on behalf of the petitioner under Section 439 read with Section 482 Cr.P.C. for grant of regular bail to the petitioner in FIR No.147/2021, under Sections 392/397/411/34 I.P.C. and Sections 25/27 of Arms Act registered at Police Station: Khajuri Khas.

2. In brief, as per the case of the prosecution, on 14.04.2021 at about 10:21AM a PCR call, vide DD No.44A was received regarding robbery at gunpoint. During investigation, complainant Sudhir Kumar informed that while he was present in the office at about 10 AM, 3 boys entered into the office and robbed an amount of Rs.9,98,170/- from Mannapuram Finance Ltd. with the help of gun and knife and thereafter fled from the spot.

3. It is submitted by learned APP for the State that during the course of investigation, three accused were arrested on 14.04.2021 with the help of CCTV footage, namely Sajid Khan @ Bittu (petitioner), Ajmerul Alam @ Dabbu and Md.Janu.

Further, at the instance of Sajid Khan (petitioner), amount of Rs.5 lakh was recovered along with a toy gun. An amount of Rs.2.5 lakh, a bag, a

paper cutter, a country made pistol along with two live cartridges were recovered at the instance of Md.Janu. Also, clothes worn by Md.Janu and Sajid Khan at the time of incident were recovered. Amount of Rs.2,46,210/- along with a country made pistol was further recovered from the possession of Ajmerul Alam.

4. Learned counsel for the petitioner submits that accused Ajmerul Alam @ Dabbu and Md.Janu were granted bail by Ld.ASJ on 25.05.2021 and 19.06.2021 respectively and claims bail on parity.

5. Learned APP for the State vehemently opposes the bail application on the ground that role of the petitioner Sajid Khan is distinct from the other accused persons since the petitioner was the mastermind as he had an account with Mannapuram Finance Ltd. and had also refused to join the TIP proceedings. Further, a major portion of the recovery is stated to have been recovered at the instance of the petitioner. Learned APP further submits that no grounds for parity are made out since accused Ajmerul Alam @ Dabbu was released vide order 25.05.2021 in view of COVID-19 pandemic and being first time offender. It is also pointed out that the application filed on behalf of the petitioner has been earlier rejected and was lastly dismissed as withdrawn before this Court vide order dated 12.08.2021.

6. I have given considered thought to the contentions raised.

It may be observed that co-accused Md.Janu had been released on bail vide order dated 19.06.2021 on the grounds of parity without considering the factual details in order dated 25.05.2021 whereby accused Ajmerul Alam was granted bail. The material irregularities in order dated 25.05.2021 passed by Shri Devender Kumar, Vacation Judge/ASJ-02, NE/KKD/Delhi are apt to be noticed and the order may be beneficially reproduced :-

“25.05.2021

*Present. Shri R.K. Satyarthi, Ld. Addl. PP for State with IO.
Mr. Narender Kumar, Ld. Counsel for applicant.*

Arguments heard.

*This application has been filed by accused
Azmerul Alam for regular bail.*

*Accused is lying in JC since 14.04.2021 and is not
required for any investigation purpose. Accused is not
covered under HPC guidelines. Accused stated to be
first time offender and is not involved in any other case
as verified by IO. In view of covid situation and factum
of being first time offender, accused **Azmerul Alam** is
admitted on bail, on furnishing of personal bond of
Rs.25,000/- and one surety of like amount, to the
satisfaction of Ld. Duty MM/Jail Superintendent.*

***Accused shall not try to influence witnesses and
shall surrender in time after the period of interim bail.**
Accused shall not indulge in any other case. Accused
shall not leave Delhi without permission of the court
concerned. Accused shall share his mobile number and
location with SHO so that he may be contacted in any
exigency.*

*Copy of order be sent to counsel for applicant
through email, if email is provided.”*

7. On the face of record, it is doubtful whether the Ld. ASJ vide order dated 25.05.2021 intended to release the accused Ajmerul Alam @ Dabbu on regular bail or interim bail. Further, vide passing order dated 19.06.2021 while granting bail to co-accused Md. Janu, the factual discrepancy in order dated 25.05.2021 was not noticed. It was not even considered that the benefit was extended to co-accused Ajmerul Alam due to covid conditions.

8. In deciding the case of parity, the role attributed to the accused, their position in relation to the incident and to the victim is of utmost importance. I am of the considered opinion that since a day-light robbery had been committed at Mannapuram Finance Ltd. and a substantial amount had been recovered at the instance of petitioner, who was the mastermind, it is not a fit case for grant of bail.

Application is accordingly dismissed.

A copy of this order be forwarded to the learned trial court, Shri Devender Kumar, ASJ-02, NE, KKD, Delhi and Shri Sunil Chaudhary, Special Judge (NDPS)/ASJ, NE, Delhi for information and with the caution to avoid such glaring discrepancies as observed in order dated 25.05.2021 as it has a chain effect in consideration of subsequent bail applications of co-accused.

ANOOP KUMAR MENDIRATTA, J.

MAY 30, 2022/R