



CNR No. DLCT01-000975-2023

IA No. 03/2023

SC No. 50/2023

State Vs. Mehendi Hasan and Ors.

FIR No. 167/2022

PS Rajinder Nagar

U/s. 397/395/201/34 IPC & 25/27/54/59 Arms Act

**REGULAR BAIL APPLICATION OF APPLICANT MOHD.
MUSTKEEN SON OF MOHD. DILSHAD**

17th August, 2024

Present: Sh. A.B. Asthana, Ld. Addl. PP for state.
Sh. Mahesh Patel, ld. Counsel for
applicant/accused Mohd. Mustkeen.
IO SI Dharmendra Sharma in person.

1. Reply filed. Copy supplied.
2. This is an application filed on behalf of the applicant/accused Mohd. Mustkeen (hereinafter referred to as applicant) for grant of regular bail.
3. It is argued that the applicant is in J.C. since 14.06.2022. It is further argued that the applicant has been falsely implicated in the present case. It is further argued that the applicant is innocent and victim of false implication and he has nothing to do with the alleged offence. It is further argued that nothing incriminating has been recovered from the applicant nor at his instance. It is further argued that the investigation has been completed, charge-sheet has already been filed and the applicant is no more required for the purpose of custodial interrogation. It is further argued that the applicant is not a previous convict or habitual offender. Ld. Counsel for

applicant has relied upon the judgment in case *Mohd. Junaid Qureshi vs. State of NCT of Delhi*, 2023 SCC OnLine Del 138 and *Javed Gulam Nabi Shaikh vs. The State of Maharashtra and Anr*, CrI. A. 2787/2024 to support his arguments. It is prayed that the applicant be released on bail.

4. Application has been opposed by the Id. Addl. PP for State on the ground that the allegations against the applicant are grave in nature. It is further submitted that the applicant is one of the main accused in the present case. It is further submitted that the applicant was caught with a country made pistol and three live cartridges. It is further submitted that the applicant has previous involvement in a similar nature of crime. It is further submitted that the applicant may threaten the complainant and his family. It is prayed that bail application of the applicant may be dismissed.
5. Arguments heard.
6. Briefly stated, the present FIR was registered on the statement of complainant Nitin Dhawan that on 08.06.2022 at around 10.25 p.m., when he was standing downstairs his house alongwith his friends, five persons came in white colour Chevrolet Cruise car and four persons came out and all were armed with pistols, who cocked the pistols and pointed towards him and looted of his golden bracelet (kada 100 gms), gold chain (25gms) and one ring (5-7 gms). At the time of leaving, they also kicked him on his abdomen. Thereafter, they fled away in the car towards New Delhi.
7. During investigation, on the basis of CCTV, the vehicle used in the dacoity was identified which was found to be stolen

from Ghaziabad, U.P. The applicant alongwith his co-accused Mehndi Hasan were arrested alongwith the aforesaid vehicle and they were also found in possession of arm and ammunitions. Both of them refused to participate in TIP proceedings. As per prosecution, the clothes which were worn by the applicant at the time of commission of offence were recovered from the applicant as he was wearing the same clothes at the time of arrest and the same are visible in the CCTV footage. The other suspects namely Kukar and Aakash has still not been arrested by the investigating agency.

8. The charge u/s. 395/397/323/34 IPC and 27 Arms Act has already been framed against the applicant and the complainant is yet to be examined. The allegations against the applicant are of grave nature involving dacoity and all of the dacoits have not yet been arrested. The safety and security of the eye witness is also a concern which needs consideration.
9. The earlier bail application of the applicant was dismissed on 02.06.2023. There is no substantial change in circumstances except the lapse of time. The complainant Nitin Dhawan was partly examined in chief as PW-3 on 02.04.2024 and thereafter, since he was unwell, the matter was adjourned for 31.05.2024.
10. On 31.05.2024, it was reported by the IO that supplementary charge-sheet is to be filed against the co-accused Tauseef and Mohd. Kasif @ Badshah and therefore, the matter was adjourned and was kept awaited for filing of supplementary

charge-sheet.

11. The testimony of the complainant is yet not complete. In the present case, the applicant had refused to participate in the TIP proceedings and therefore, his identification is yet to be ascertained during the trial. The clothes worn by the applicant at the time of commission of offence as visible in the CCTV footage were recovered from the applicant as he was wearing the same clothes at the time of his arrest.
12. Considering the overall facts and circumstances, this Court is not inclined to grant bail to the applicant.
13. Application filed by the applicant Mohd. Mustkeen for grant of bail is hereby dismissed.
14. Copy of this order be given dasti to Id. Counsel for applicant/accused.
15. A hard as well as soft copy be also sent to the concerned Jail Superintendent immediately for information and necessary action.
16. Application stands disposed of in above terms.

(SUSHIL ANUJ TYAGI)
ASJ-04/Central/Delhi
17.08.2024^(VR)