

FIR No.666/16  
PS : Sarai Rohilla  
State v. Mohd. Kashim etc.

14.03.2017

Present: Sh. P.K. Saexna, counsel for applicant –  
Mankoosh Ali.

Sh. Wasi Ur Rahman, Addl. PP for State with  
Counsel for complainant and Investigating  
Officer.

**Heard on bail application No.60/17 of  
accused/applicant – Mankoosh Ali.**

Learned Counsel for the accused/applicant submits that no recovery has been made from the accused/applicant and that the prosecution is relying only on CDRs which do not connect the accused/applicant with commission of present crime and that since investigation has been concluded, he be allowed bail. Further, it has been submitted that co-accused Kehkashan Hasan has already been allowed bail by Hon'ble High Court of Delhi on 05.12.2016.

Learned APP has strongly opposed the bail application by submitting that the accused/applicant played vital role in decoity at the house of the victim by his

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co-accused; that his two co-accused Mohd. Kasim and Gulam Mohd were arrested from the spot soon after the decoity; that the house of the accused/applicant was pointed by his two co-accused after their arrest; that the accused/applicant was in regular contact with his co-accused Kehkashan and Mohd. Kasim as per CDRs collected by the Investigating Officer during investigation.

As regards the bail granted to accused Kehkashan by the Hon'ble High Court, Learned APP submits that the factum of her pregnancy was taken into consideration for her release on bail and that the case of the accused/applicant being distinguishable in this regard, he is not entitled to bail simply because his co-accused has been allowed bail.

Decoity took place at the house of the victim i.e. 313/84-B, Street No.6, Tulsi Nagar, Inder Lok, Delhi. The occurrence was recorded in CCTV. Co-accused Mohd. Kasim and Gulam Mohd were apprehended then and there and from their possession country made pistols and ammunition were recovered. In their disclosure statements, name of the accused/applicant – Mankoosh Ali appeared as their co-accused. Accused/applicant was arrested at the pointing of the co-accused Mohd. Kasim and Gulam Mohd. After that

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Sh. Kuldeep PW pointed the tenanted room where accused/applicant – Mankoosh Ali used to reside. Kehkashan co-accused was arrested even prior to the arrest of the accused/applicant. Prosecution has also relied on CDRs of the accused/applicant with his co-accused Kehkashan and Mohd. Kasim. It is submitted that he was in regular touch with Mohd. Kasim, before and after the occurrence.

In the given circumstances, even if no incriminating material has been recovered from the accused/applicant, at this stage it cannot be said that he did not play any role in commission of the crime. Prosecution has alleged criminal conspiracy against accused/applicant and his co-accused in commission of the decoity. In view of all this, decision in case title State of NCT of Delhi v. Shashi Kiran, 2016 (2) JCC 1304, cited by Learned APP signifies the importance of the CDR calls of the accused/applicant with the co-accused, particularly when allegation of criminal conspiracy is also there.

As regards, co-accused Kehkashan, Hon'ble High Court allowed her bail while taking into consideration the fact that she was stated to be pregnant, that she was in custody w.e.f. 29.10.2016 and that she was no longer

required for further investigation.

Keeping in view the role played by accused/applicant and the allegation of criminal conspiracy, Court does not find any ground to enlarge the accused/applicant on bail, at this stage. The bail application is hereby dismissed.

(Narinder Kumar)  
Special Judge-2:NDPS Act(Central)  
Tis Hazari Court:Delhi/14.03.2017