

FIR No. 264/17
PS : Darya Ganj
State v. Furkan etc.

31.07.2018

Present: Proxy Counsel for Counsel for accused-applicant
**Rahim Chaudhary @ Nahim (in bail
application No. 238/18)**

Sh.Wasi-Ur-Rehman, Addl. PP for the State.

In this bail application no.238/18 on behalf of Rahim Chaudhary @ Nahim, it is submitted that accused-applicant is in custody w.e.f. 28.12.2017; that he is the only bread earner of his family, who has been falsely implicated in this case simply on the basis of disclosure statement.

Learned Addl. Public Prosecutor submits that keeping in view the role attributed to the accused-applicant and factum of his identification during Test Identification Proceedings, accused-applicant is not entitled to bail.

Case of prosecution is that on 29.10.2017 at about 7:50 a.m, at Asaf Ali Road in front of Wine Shop, co-accused Harun (non-applicant), Furkan (non-applicant) and accused-applicant Rahim Chaudhary and another (not

known), in furtherance of their common intention, committed robbery by removing of gold kada (weighing 36 grams) from the right arm of Girish Gupta complainant after cutting the same with the aid of a cutter and co-accused Harun (non-applicant) aimed pistol at complainant and used a deadly weapon.

Learned Counsel for accused-applicant submits that the occurrence is said to have taken place on 29.10.2017 but complainant made statement before the police on 04.11.2017 and keeping in view this delay in getting the case registered, no reliance be placed on the factum of identification of the accused-applicant as the possibility of the accused-applicant having been shown to the complainant by the police, in the meanwhile, cannot be ruled out.

It is true that case was got registered on the sixth day of the occurrence but the complainant explained in his statement that due to the occurrence, and he being a heart patient did not visit the police station and it was only after he discussed the matter with his family members that he opted to report the matter.

The complainant identified the accused-applicant before Learned Metropolitan Magistrate in Test Identification Proceedings on 12.01.2018 from amongst 9

undertrial prisoners. Keeping in view this and that specific role was attributed to the accused-applicant, court does not find any ground to release the accused at this stage, particularly when case is coming up on 09.10.2018 for prosecution evidence and complainant and three other witnesses have already been summoned for said date. Bail Application No.238/18 is hereby dismissed.

(Narinder Kumar)
Special Judge NDPS – 02 (Central)
Tis Hazari Courts, Delhi.31.07.2018