

**CNR No. DLCT01-009181-2023**



**IA No. 01/2023**

**SC No. 397/2023**

**State Vs. Vineet Kumar**

**FIR No. 413/2023**

**U/s. 392/397/411/34 IPC & 25/27/54/59 Arms Act**

**PS Burari**

**BAIL APPLICATION OF APPLICANT VINEET KUMAR**  
**SON OF SURESH SINGH**

**24<sup>th</sup> July, 2023**

Present: Sh. Md. Iqrar, Ld. Addl. PP for State.  
Sh. Jitender Singh, Id. Counsel for applicant/accused  
Vineet Kumar.  
IO SI Neeraj Saini in person.

1. Reply filed. Arguments heard.
2. This is an application u/s. 439 Cr. P.C. seeking bail filed on behalf of the applicant/accused Vineet Kumar (hereinafter referred to as applicant).
3. It is argued by Counsel for applicant that the applicant is in J.C. since 18.04.2023. It is further argued that the applicant has been falsely implicated in the present case. It is further argued that the allegations against the applicant are totally false, frivolous and concocted. It is further argued that the charge-sheet has already been filed. It is also argued that nothing has been recovered from the possession of the applicant and he has not committed the

alleged offence. It is prayed that the applicant be released on bail.

4. The application for grant of bail to the applicant/accused is opposed by the Id. Addl. PP for State. It is submitted that the applicant has refused to participate in TIP proceedings. It is further submitted that the robbed articles are yet to be recovered. It is further submitted that applicant has robbed the complainant on gun point. It is prayed that the bail application of the applicant Vineet Kumar be dismissed.
5. As far as the question of grant of bail under Section 437 Cr. P.C. and 439 Cr. P.C. is concerned, the law in this regard has been settled by the Hon'ble Supreme Court of India in various judgments and has laid down various considerations for grant or refusal of bail to an accused in non bailable offences like:
  - (i) *Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
  - (ii) *Gravity and seriousness of offence and punishment which the conviction will entail;*
  - (iii) *Nature of accusation and evidence therefor;*
  - (iv) *Reasonable possibility of securing presence of the accused at trial and likelihood of him absconding or fleeing if released on bail;*
  - (v) *Possibility of the offence being repeated;*
  - (vi) *Conduct, character and behaviour of accused;*
  - (vii) *Reasonable apprehension of the witnesses being tampered with;*
  - (viii) *Means position and standing of the accused in the society;*
  - (ix) *Danger, of course, of justice being thwarted by grant of bail;*
  - (x) *Balance between the rights of the accused and the larger*

*interest of the Society/State;*

- (xi) Any other factor relevant and peculiar to the accused;*
- (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused.*

6. In the landmark judgment of ***Gurcharan Singh and Others Vs. State (AIR 1978 SC 170)***, it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the Courts. It was further held that there cannot be any inexorable formula in the matter of granting bail and the facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.
7. Brief facts of the case are that as per the FIR are that on 15.04.2023, when the complainant was present in his jewellery shop at around 5.15 p.m., three persons entered a shop out of which two were wearing helmet and one was wearing cap. The person who was wearing cap pointed the pistol upon the complainant and the other two persons started taking out the jewellery from the almirah and

putting them in their bag. One public person came outside the shop and due to fear, those three persons started running and one of them left his helmet. The complainant hit the helmet due to which the magazine filled with cartridges fell down from the pistol and all three of them ran away on the bike. On checking, the complainant found that several silver and gold jewellery was looted alongwith Oppo mobile phone having two Sim cards of Airtel and Jio.

8. Charge-sheet reveals that CCTV cameras were checked and at around 5.15 p.m., three persons on white colour Apache bike are seen coming and entering the shop of the complainant. The person wearing cap pointed the pistol upon the complainant and the second person can be seen taking out the jewellery from the almirah and the third one was filling the jewellery in their bag. Thereafter, all three can be seen running and the complainant followed them with helmet and hit the helmet due to which magazine from the pistol fell down and those three fled away on the bike.
9. On the basis of secret information, the applicant Vineet Kumar was arrested and he disclosed his involvement in the present case. The robbed mobile phone of the complainant was recovered at the instance of the applicant. The applicant also got recovered cap and black coloured T-shirt which he was wearing on the day of the incident.
10. The applicant refused to participate in TIP proceedings.

The role of the applicant is clear from the contents of the CCTV footage. The offence is of serious nature of looting the jewellery shop of the complainant by use of arms in the day light. The other two accused persons are yet to be arrested and case property is yet to be recovered.

11. Considering the overall facts and circumstances of the case, this Court is not inclined to grant bail to the applicant Vineet Kumar.
12. Application for grant of bail filed on behalf of the applicant Vineet Kumar is accordingly dismissed.
13. Copy of this order be given dasti to Id. Counsel for applicant/accused.
14. Soft as well as hard copy of this order be also sent to the concerned Jail Superintendent for information and necessary action.

**(SUSHIL ANUJ TYAGI)**  
**ASJ-04/Central/Delhi**  
**24.07.2023<sub>(VR)</sub>**