

14.03.2024

Present: Sh. Sanjay Jindal, Ld. Addl. PP for the State.
Sh. Manak Chand, Ld. counsel for the applicant
Inspector Sudhir Kumar is present.

This application U/s 439 Cr.P.C. has been moved seeking bail of applicant / accused Kartik.

Reply filed. Copy supplied.

During course of arguments, Ld. Counsel has submitted that no similar application is pending before any other court.

During further course of arguments, Ld. Counsel for the applicant has argued that as per allegations, the complainant himself is drug peddler who was approached by one Sanju. When the complainant refused to provide drugs to Sanju, he was attacked by the applicant and his other associates. Ld. Counsel has raised the contention that complainant himself is a habitual offender who has falsely implicated the applicant for the reasons best known to him. Further submitted that further custody of the applicant is not going to assist the investigating agency in any manner, therefore, keeping the applicant in custody before conviction shall not be in interest of justice. It is also argued that applicant was not the actual assailant. It was accused Irfan @ Ballu who had given knife blows to the injured. With these submissions, release of the applicant on bail has been prayed for.

Bail application is opposed by the Ld. Addl. PP for the State. It is submitted that allegations against the applicant are u/s. 307 which are serious in nature. His presence along-with co-accused persons can be seen in CCTV footage adjacent to the place of occurrence. Applicant has been recently arrested and investigation against him is still pending. Further, two of his co-accused are still absconding and release of the applicant can create hindrance in apprehension of absconding accused persons.

Submissions heard. Record perused.

Although the applicant may not be the actual assailant but as per the allegations, he was present on the spot and had actively assisted the other accused persons in commission of the crime. So, with the aid of Section 34 IPC, his conduct shall be considered at par with the actual assailant. So, the applicant cannot claim any leniency on basis of the actual role. Further, two of the co-accused persons are still absconding. If released on bail at this stage, the applicant can create obstacles in arrest of the absconding accused persons. It has also come on record that it is not the first case registered against the applicant. Moreover, has been recently arrested, investigation in respect of him is still pending and supplementary charge-sheet qua him is yet to be filed. Thus, if released on bail, he can again involve himself in criminal activities or can harm the witnesses.

] Considering the nature of offence and stage of investigation, this court is not inclined to allow the present

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application. *Same is accordingly dismissed.*

Observation made herein above shall not affect the merits of this case in any manner.

Application stands disposed off.

Copy of the order be given dasti.

(BABRU BHAN)
ASJ-03, N/W, ROHINI COURTS
DELHI/14.03.2024