

New Case No. 075/2019
FIR No. 293/18
PS : Patel Nagar
State Vs. Jatin Verma etc.
CNR No. DLWT-01-001080-2019

01.04.2021

ORDER ON CHARGE:

Arguments on charge heard. Record perused. Ld Counsel appearing on behalf of accused Rajesh @ Madan Lal Bansal and Dheeraj Puri have also filed written submissions in support of their arguments.

Brief facts of the case as per the case of the prosecution are that present FIR was registered on the complaint of one Sita Ram, employee of Securities Private Limited and was working as a driver on cash van bearing regn. No. UP 13T 6196. On 15.10.2018, at about 11.30-11.40 A.M., complainant Sita Ram alongwith other employee of the company namely Pushkar Singh, Ram Bhavan Rai (gunman), Bharat Singh and Dileep Chand alongwith the cash went to feed four ATM kiosks in the area of Patel Nagar. At about 1.15 pm, when they reached at ICICI Bank ATM situated at Bheel Basti, Baljit Nagar Road, Road NO. 20, and the complainant parked the cash van in front of 35/5, West Patel Nagar, Dileep Chand, auditor Pushkar Singh and gunman Bharat Singh took some cash for feeding the said ICICI Bank ATM leaving behind the Cash box in the cash van. At that time, gunman Ram Bhavan Rai was sitting on the back side in the van and the windows of the van were open. At that time, two boys came

from the front side of the van who were holding some weapons in their hands and had put handkerchiefs on their faces. One of the boys put the weapon on me while the other boy put the weapon on the gunman who was sitting on the rear seat. The gunman Bharat Singh left his gun in the van and ran out of the van. Thereafter, third boy came from behind and hit my head on the front and rear side with some pointed object due to which I also ran out of the van for my safety and also raised alarm regarding robbery attempt by the three boys. Public persons gathered there. Thereafter, the three boys left from there.

Thereafter, present FIR was registered and the matter was investigated. After the investigation, chargesheet was filed in the court thereby challaning the accused Jatin Verma, Umesh Kumar and in the report u/s 173 Cr.P.C, it was mentioned by the IO that accused Rajesh @ Madan Lal Bansal and Mintu Giri were evading arrest and proclamation proceedings had been initiated against them. After compliance of section 207/208 Cr.P.C, the case was committed to this court on 11.02.2019. After hearing both the parties, separate charges were framed against accused Jatin Verma and Umesh Kumar on 07.05.2019 and thereafter, case was proceeded for prosecution evidence.

Thereafter, pursuant to the further investigation as undertaken in the main challan, supplementary chargesheet qua accused Rajesh @ Madan Lal Bansal and Dheeraj Puri was filed which was committed to this court on 13.03.2020.

It is heavily contended on behalf of both the accused persons that except the disclosure statement recorded by the IO that there is not an iota of legally admissible evidence against them to connect with the crime of the present case. On behalf of accused Rajesh @ Madan Lal Bansal, it is argued that in the supplementary challan, prosecution has relied that he was using two mobile numbers 8506081936, 9319750810 and the location of the said mobile phone at the time of commission of crime was showing from the house of the accused Rajesh @ Madan Lal Bansal to the spot and from the spot to his house again but both these numbers have been recovered from accused Umesh Kumar. It is also argued that even those numbers were issued on the fake IDs. Therefore, it is argued that since the said numbers were not being used by the accused Rajesh @ Madan Lal Bansal nor they were issued in his name, there was no connection of accused Rajesh @ Madan Lal Bansal with the commission of crime. It is further argued that only on the basis of the disclosure statement of accused Rajesh @ Madan Lal Bansal, present challan has been filed against him which has no legal admissibility. It is, therefore, prayed that in the absence of any evidence against them, both the accused persons may be discharged from the present case.

On behalf of accused Dheeraj Puri, it is argued that at the alleged date and time of commission of crime, he was driving the other van in the area of Malviya Nagar, South Delhi, therefore, it is not geographically possible for him to

present at both the places at the same time. It is further argued that in the supplementary challan, prosecution has relied that he was using mobile numbers 8377964731 and the location of the said mobile phone as well as the location of the cash van was same but this number has been recovered from accused Umesh Kumar. It is also argued that even this numbers was issued on the fake IDs. Therefore, it is argued that since the said number was not being used by the accused Dheeraj Puri nor the said number was issued in his name, there was no connection of accused Dheeraj Puri with the commission of crime. It is further argued that prosecution has not even cited any witness of the cash van which was being driven by accused Dheeraj Puri who could say that the accused Dheeraj Puri was regularly connected on the phone. It is further argued that only on the basis of the disclosure statement of accused Dheeraj Puri, present challan has been filed against him which has no legal admissibility. It is, therefore, prayed that in the absence of any evidence against them, both the accused persons may be discharged from the present case.

Per contra, Ld. State Counsel has argued that all the mobile numbers have been got issued on the fake IDs and as such there is no question of the numbers being in the name of any of the accused persons. It is further argued that location of mobile number allegedly used by accused Rajesh @ Madan Lal Bansal is corroborating the fact that location of the said mobile shows his presence from his house to the spot. It is

argued by the IO that these three mobile numbers were specifically being used for commission of crime. It is further argued that on the basis of their call detail records and location chart and other material on record, a prima facie opinion for framing charge U/S 394/511/120B & 397 IPC against the accused persons.

I have carefully gone through the record and have perused the statement of complainant as well as other witnesses recorded U/S 161 Cr P C.

It is settled proposition of law that at the stage of charge the court is not required to examine the evidence set up by the State minutely or bit by bit so as to carry out a detailed examination of trial which is to be left at the stage of evidence itself. Reliance placed on **State V. S. Bangarappa AIR 2001 SC 222**. Keeping in view the aforesaid discussion and the settled proposition of law the Court is not required to go into the probative value of the material minutely at the stage of framing of charge.

Perusal of the record shows that accused Umesh Kumar from whom above three mobile numbers have been recovered vide seizure memo dated 22.10.2018 in case FIR No. 446/18, PS Mianwali Nagar u/s 102 Cr.P.C and was formally arrested in this case on 25.10.2018, however, accused Rajesh @ Madan Lal Bansal and Dheeraj Puri were arrested in this case on 07.01.2020 and 17.01.2020 respectively. Perusal of the record also shows that in the disclosure statement, accused Umesh Kumar has not named accused Dheeraj Puri

being the informer and there is no evidence on record either documentary or in the form of statement to connect accused Dheeraj that he was using the mobile number 8377964731 at the time of commission of crime and was also giving instructions. Admittedly, accused Dheeraj Puri was driving another cash van in Malviya Nagar area and there were more than one persons present in the said van. It cannot be said that the said mobile phone was being used by accused Dheeraj Puri without any legal evidence to the said effect. Moreover, when the said phone was not even recovered from accused Dheeraj Puri. Admittedly, the said mobile phone was recovered from accused Umesh Kumar almost two years back.

Likewise, as regards accused Rajesh @ Madan Lal Bansal there is no legally admissible evidence either in the form of document or statement of any witness to connect that accused was using the said mobile phone in the commission of crime. Moreover, the said mobile was not even in the name of this accused and was not even recovered from him. It is argued that in the supplementary challan, prosecution has relied that he was using two mobile numbers 8506081936, 9319750810 and the location of the said mobile phone at the time of commission of crime was showing from the house of the accused Rajesh @ Madan Lal Bansal to the spot and from the spot to his house again but both these numbers have been recovered from accused Umesh Kumar. It is also argued that even those numbers were issued on the fake IDs. Therefore, it is argued that since the said numbers were not being used by

the accused Rajesh @ Madan Lal Bansal nor they were issued in his name, there was no connection of accused Rajesh @ Madan Lal Bansal with the commission of crime. It is further argued that only on the basis of the disclosure statement of accused Rajesh @ Madan Lal Bansal, present challan has been filed against him which has no legal admissibility. It is, therefore, prayed that in the absence of any evidence against them, both the accused persons may be discharged from the present case.

This court is conscious of the settled proposition of law that for framing of charge, no reason is required, however, for discharge of an accused, reasons for the same are required. This court is of the considered view that even if the evidence placed on record is taken as gospel truth, both the accused persons Rajesh @ Madan Lal Bansal and Dheeraj Puri cannot be presumed to have any connection with the commission of crime in the present case.

Therefore, in view of the above discussion, both the accused Rajesh @ Madan Lal Bansal and Dheeraj Puri stand discharged from the present case because of insufficient evidence against them.

**Announced in the Open Court
on 1st April, 2021**

**(POORAN CHAND)
ASJ-02/West/Delhi**