

B.A.No.1114/21
FIR No.307/20
PS DBG Road
State v. Nilesh @ Kale

08.06.2021

Present: Sh. K.P. Singh, Ld Addl. PP for State through videoconferencing.

Sh. Lokesh Ahlawat, Counsel for accused-applicant through videoconferencing.

Hearing is conducted through videoconferencing.

This is an application u/s 439 Cr.P.C. for grant of regular bailon behalf of accused-applicant Nilesh @ Kale in case FIR No.307/20.

Arguments heard. For orders, put up at 4 pm.



(NeeloferAbidaPerveen)
SpecialJudge-02, NDPS/
ASJ, (Central), THC/Delhi
08.06.2021

AT 4 pm

At the time of passing order, it emerges that certain clarifications are required. For clarification, put up on **16.06.2021**.



(NeeloferAbidaPerveen)
SpecialJudge-02, NDPS/
ASJ, (Central), THC/Delhi
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16.06.2021 At 4 pm
ORDER

This is an application u/s 439 Cr.P.C. for grant of regular bail on behalf of accused-applicant Nilesh @ Kale in case FIR No.307/20.

Ld. counsel for the accused-applicant contended that accused-applicant has been falsely implicated in the present case. That accused-applicant is a young boy. That accused-applicant is in JC since 08.01.2021. Ld. counsel submits that there is nothing to connect the accused-applicant with the incident and as per the contents of the FIR two motorcycle borne persons had hit the bike of the employees of the complainant and then had run away with the jewellery articles and no TIP proceedings has been conducted in order to ascertain if the accused-applicant is one of the said two motorcycle borne persons and that there is no basis of invoking Section 395 IPC. That case is not even of robbery, and no such incident had taken place as alleged. That complainant failed to produce any bill of the robbed jewellery articles. That investigation is complete and chargesheet has been filed. That main co-accused Chander Kant @ Sonu has already been granted regular bail in the present matter on 17.05.2021. That case of the accused-applicant is on similar footing as that of co-accused who has been granted

regular bail. That accused-applicant is the sole bread earner for his family.

Ld. Addl. PP submits that the present case pertains to the robbery of jewellery articles weighing 3927 grams from the employees of the complainant by the accused-applicant and two other co-accused. Ld. Addl. PP further submits that he has gone through the reply of the IO and it had not been clarified as to on what basis Section 395 IPC has been invoked in the present case and it has also not explained as to why TIP has not been conducted in the present case. That main co-accused has already been granted bail by the Court and there is parity between the present accused-applicant and co-accused who has been granted regular bail by the Court. That the accused-applicant does not have clean antecedents

Heard.

The FIR is registered on the statement of the owner of jewellery shop in the name and style of KC Jewellers at Bank Street, Karolbagh, Delhi alleging that on 30.12.20 in usual course of business the complainant handed one bag containing 47 items of gold jewellery (weighing 3927 gms) to his employees namely Rajesh and Dinesh and dispatched them on a motorcycle to Pitampura, as the employees of the complainant visit the shops of the prospective customers to show them the samples of jewellery. That Dinesh was riding the bike while Rajesh was holding the bag and when the motorcycle had reached near P&T quarters, Ramjas Lane, one

motorcycle hit the bike of employees from backside due to which they fell on the road and the assailants snatched the bag from Rajesh and ran away from the spot.

In the course of investigation on the basis of secret information on 07.01.2021 co-accused Chanderkant and Gurukumar were arrested from Ahmedabad and on 12.01.2021 accused-applicant Nilesh Kale was arrested from Gujarat. The motorcycle used in the commission of the offence is shown to have been recovered from accused Nilesh Kale, besides jewellery weighing over 39 kgs. Admittedly no TIP of any of the accused arrested in the present case has been conducted by the IO. TIP of the recovered jewellery items is conducted however, the details of the stolen jewellery articles are not brought on record, what is the evidence to connect the recovered articles to the complainant is also not forthcoming. Section 395 IPC is invoked as upon analysis of CCTV Footage it surfaced that one scooty and three motorcycles were chasing the motorcycle of the complainant's employees, which were without registration plates and the riders had helmets and masks on. It is not explained as to how the motorcycle recovered from the accused is the same motorcycle which was used in the commission of the offence. From such myriad lacunae it would appear as if only on the basis of previous involvement, the accused have been sought to be implicated in the present case. Though the accused-applicant does not have clean antecedents, however the case of the

prosecution in this case is particularly on slippery grounds so far as the involvement of the accused-applicant in the incident dated 30.12.202 is concerned. The prosecution would have to establish at the appropriate stage if the jewellery articles shown to have been recovered at the instance of the accused-applicant are connected to the complainant, being stolen property and that the motorcycle seized from accused-applicant is the one used in the commission of the offence.

Investigation is complete in the present case, recoveries stand effected, chargesheet is filed and further custody of the accused-applicant is not required for the purposes of investigation, no TIP proceedings have been conducted in the present case to ascertain the identity of the accused persons, it has also not been clarified as to how Section 395 IPC is invoked in the present case, co-accused Chanderkant has already been granted regular bail and the case of the accused-applicant is on the same footing, In such circumstances and upon such facts, application is allowed and accused-applicant Nilesh@ Kale is granted bail in the present case subject to furnishing personal bond with one local surety in the sum of Rs. 20,000/- each to the satisfaction of the Trial Court/Duty MM, undertaking not to indulge in criminal activities, he shall mention the mobile phone number to be used by him which number he shall ensure is kept on switched on mode with location activated and shared with the IO at all times, he shall not change the verified

address and mobile phone number without prior intimation to the IO, he shall confirm his location telephonically with the IO on the Monday of every week, he shall deposit his passport if he holds one with the Ld. Trial Court, he shall scrupulously appear on each and every date of hearing before the Ld. Trial Court and shall not delay, defeat the trial nor interfere with the proceedings in any manner whatsoever, he shall not threaten, intimidate or influence witnesses nor tamper with the evidence in any manner whatsoever.

Application is disposed of accordingly.

Copy of order be forwarded to Ld.Counsel for accused-applicant through electronic mode.



(NeeloferAbidaPerveen)
SpecialJudge-02, NDPS/
ASJ, (Central), THC/Delhi
16.06.2021