

23.08.2022

Present : Shri R. C. S. Bhadoria, Ld. SPP for State.
IO SI Naveen Kumar in person.
All 13 accused in person.
Ld. counsels for the accused persons.

Copy of the chargesheet and accompanying documents are supplied to the accused persons.

Six applications for surrender-cum bail are filed on behalf of accused persons. These six applications and the previous seven applications for surrender-cum-bail are taken up for consideration.

It is stated in the applications that the accused have been falsely implicated in the present case. It is argued that the accused were not arrested during investigation. It is prayed that they be granted bail since their custody is not required for any purpose.

Ld. SPP for the State opposes the bail applications of accused/applicants stating that the allegations against the accused are serious in nature. He has submitted that the accused may influence the witnesses if released on bail and may even abscond. Hence, it is prayed that bail applications may be dismissed.

Arguments on the application are heard and record has been perused.

The accused were not arrested during investigation. Chargesheet has already filed.

In the case of Court on its own Motion Vs. CBI (2004) 72 DRJ 629, the Hon'ble High Court of Delhi held that on appearance of accused in non-bailable offence who has neither been arrested by the Police during investigation nor produced in custody under Section 170 Cr.PC, the Court shall call upon the accused to move a bail application if the accused does not move it on his own and release him on bail as the circumstance of his having not been arrested during investigation or not been produced in custody is itself sufficient to entitle him to be released on bail. It was observed that the reason for this is simple that if a person has been at large and free for several years and has not even been arrested during investigation, to send him to jail by refusing bail suddenly, merely because chargesheet has been

filed is against the basic principles governing grant or refusal of bail.

Order dated 02.07.2022 passed by the Ld. Sessions Court in the present case on the bail application of accused Rajman is perused. The Ld. Sessions Court has observed that the present case falls in category B of categories laid down by the Hon'ble Supreme Court in the case of Satender Kumar Antil Vs. CBI(2001) 10 SCC 773 and therefore, the bail applications are to be decided by this Court on merits.

In view of the above, since the accused persons were not arrested during investigation, the 13 applications of the 13 accused persons for surrender-cum-bail are allowed. They are admitted to bail on furnishing of personal bond in the sum of Rs.20,000/- with one surety each in the like amount, besides furnishing the particulars/documents as per Annexure B to the judgment dated 28.06.2021 of Hon'ble High Court of Delhi in *Sunil Tyagi Vs. State (NCT of Delhi) Crl. MC No.5328/2013* and subject to the following conditions:-

- 1 During the period of bail, the accused will not try to contact any of the witnesses.
- 2 The accused shall not misuse the benefit of bail by indulging in commission of similar offences in future.
- 3 The accused shall appear before the court on each and every date of hearing.
- 4 The accused shall intimate the court in case of change of their address.

If the accused are found to be violating any of the above conditions, the State shall be at liberty to move an application for cancellation of bail.

Bail bonds for all accused persons are furnished. Same are scrutinized and accepted.

To come up for scrutiny of documents and for further proceedings on 16.09.2022.

(Shirish Aggarwal)
Chief Metropolitan Magistrate,
North-East District, Karkardooma
Courts, Delhi, 23.08.2022