

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of order: 30th November, 2009

+ **BAIL APPLN. 349/2009**

JETINDER SHARMA Petitioner
Through Mr.Arun Bhardwaj, Sr.Advocate
with Mr.Tarun Sharma, Advocate.

versus

STATE Respondent
Through Mr.K.K.Rai, Sr.Advocate with
Mr.R.C.Pathak, Advocate for the
complainant.

CORAM:
HON'BLE MR. JUSTICE V.K. JAIN

1. Whether Reporters of Local newspapers may be allowed to see the Judgment? YES
2. To be referred to the Reporter or not? YES
3. Whether the Judgment should be reported in the Digest? YES

V.K.JAIN,J (ORAL)

1. This is a petition for grant of anticipatory bail. The FIR in this case was lodged by one Sanjay Sharma. He alleged that on 4.2.2009, when he was sitting in his office at Savita Vihar along with Anil Grover, Brijlal, Sandeep Chaudhary and Rajesh Jain, Jeetu Pandit who runs cable line and in cable and has business rivalry with them, came there at about 9:15 p.m. along with 8-9 boys. They were holding baseball bat, iron rod, pipe, wooden stick etc. in their hands. They broke the glass and plastic door of the

office and they gave beating to them. It has been further alleged that Jeetu also took away the cash bag from the hands of Brij Lal Sharma which contained Rs.2 lakhs.

2. It has been contended by learned counsel for the petitioner that the petitioner has cooperated with the Investigating Officer by giving replies to his questions in terms of order of the Court dated 22.9.2009. The petitioner has placed on record a true copy of the questions and answers given pursuant to the order dated 22.9.2009. He denied the allegation against him and stated that CCN people themselves are having criminal bent of mind. The answers have been given to the questions of the Investigating Officer indicates that there was no cooperation of the petitioner as such. Flat denial does not amount to rendering cooperation to the Investigating Officer. According to the respondent, they need custodial interrogation of the petitioner in order to ascertain the names of those who had accompanied him and were involved in the commission of the crime. The respondent has also to recover the weapons which were used for giving injuries and the cash which has been stolen from the hands of Brij Lal Sharma. Therefore, the requirement of the respondent for custodial interrogation of the petitioner cannot be said to be unjustified.

3. In Pokar Ram vs. State of Rajasthan AIR 1985 SC 969 the Hon'ble Supreme Court observed as under:

“Relevant considerations governing the court’s decision in granting anticipatory bail u/s 438 are materially different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal. These situations in which the question of granting or refusing to grant bail would arise, materially and substantially differ from each other and the relevant considerations on which the courts would exercise its discretion, one way or the other, are substantially different from each other.”

4. In *Sanjeev Kumar Gupta vs. Commissioner of Customs* 2001(3) AD (Delhi) 275 this Court declined anticipatory bail as custodial interrogation of the petitioner was required. In *State Rep. by the CBI vs. Anil Sharma* JT 1997 (7) SC 651 the Hon’ble Supreme Court observed that effective investigation of suspect is of tremendous advantage in disinterring many useful informations and materials which would have been concealed. It was further observed that success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would be reduced to a mere ritual. The Hon’ble Court rejected the argument that custodial

Bail Appln. No.349/2009 Page 3 of 5

interrogation is fraught with the danger of the person being subjected to third degree methods, observing that such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.

5. The learned counsel for the petitioner states that the FIR of almost similar allegations was lodged by one Ganesh, who is also from CCN group, against other persons. I am unable to appreciate how that would show the incident in question did not take place. The MLCs of the injured persons prima facie indicate that the incident subject matter of the FIR did take place. The door of the office of the complainant was found broken when the Investigating Officer reached for investigation.

6. It was also contended by learned counsel for the petitioner that cases have been registered against Sandeep Chaudhary, one of the persons alleged to have been injured in this incident. Even if that be so, that by itself would not indicate that no incident as alleged in the FIR took place. Sandeep Chaudhary was not the only person injured in the incident and the FIR was not lodged by him but by one Sanjay Sharma. Keeping in view the facts and circumstances of the case, no grant for anticipatory bail has been

made out.

BAIL APPLN. 349/2009 stands dismissed.

NOVEMBER 30, 2009
'sn'/RS

V.K. JAIN,J