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

% **Date of decision: 14.12.2023**

+ **BAIL APPLN. 4206/2023**

VIRENDER KUMAR

..... Petitioner

Through: Mr. Kamal Kant Jha and Mr. Avinash Singh, Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Satish Kumar, APP for the State with SI Abhishek, P.S. Khajuri Khas, Delhi.

**CORAM:**

**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**

**JUDGMENT**

**SWARANA KANTA SHARMA, J. (Oral)**

**CRL.M.A. 34287-88/2023 (exemption)**

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

**BAIL APPLN. 4206/2023**

3. The instant application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of regular bail in case FIR bearing no. 333/2023, registered at Police Station Khajoori Khas, Delhi for the offences punishable under Sections 308/323/341 of the Indian Penal Code, 1860 ('IPC').



4. Issue notice. Mr. Satish Kumar, learned APP accepts notice on behalf of the State.

5. Briefly stated, facts of the present case are that present FIR was registered on the complaint of complainant Smt. Sunita Devi, who is the wife of present accused/applicant. She had stated in her complaint that her marriage with present applicant/accused was solemnized about 15 years back and there are two children born out of the wedlock. It was alleged by the complainant that after two years of marriage, her husband Virender had started consuming alcohol and beating her. It was further stated that her husband was living with his brother and sister-in-law for the last six months, but used to beat the complainant after consuming alcohol. It was alleged by the complainant that on 30.06.2023 at about 11:00 PM, her husband i.e. the present accused/applicant had come to her house and had started knocking at the door, after which he had broken it and had entered the house. It was alleged that after entering the house, the present accused/applicant had started beating the complainant and her children with a *danda*. When the mother-in-law of the complainant i.e. mother of the present accused/applicant had come to rescue the complainant, accused Virender had also started beating her, due to which her hand had got fractured. Further, the present accused/applicant had then also lifted his mother in an attempt to throw her from the stairs. It was alleged that the mother-in-law of the complainant could only be saved as her neighbours Samar and Sahil had caught hold of the present accused/applicant and had saved her. Thereafter, the neighbours of the complainant had called the police and the present FIR was registered. The chargesheet in the present case was filed before the learned Trial Court under Sections 308/323/341 of IPC on 28.08.2023.



6. Learned counsel for applicant argues that the present accused/applicant has not caused grievous injuries to his mother and the injury in question was not on vital part of the body and in this regard, he also places reliance on the judgment of Hon'ble Supreme Court in case of ***Kishan Chand v. State of UP*** AIR 2008 SC 131 and submits that the arm is not a vital part of the body. Learned counsel for the applicant further states that the chargesheet has been filed in the present case and the applicant is in judicial custody since 01.07.2023. It is also argued that the applicant had no intention of hitting his mother, but it was only when he was beating his wife that the mother of the applicant had intervened and had suffered injuries. Therefore, it is prayed that the present bail application be allowed.

7. Learned APP for the State, on the other hand, argues that the allegations against the present accused/applicant are serious in nature and it has been specifically alleged that the accused has beaten his wife, mother and his minor children. It is further stated that the mother of the present accused/applicant has suffered grievous injury on her right arm due to the beatings given by the accused. It is also stated that the accused had lifted her mother and was about to throw her from the stairs but it was only after the intervention of her neighbours that the mother of the accused/applicant was saved. Thus, it is prayed that the present bail application be dismissed.

8. This Court has heard arguments addressed by learned counsel for the applicant and learned APP for the State, and has perused material on record.

9. The allegations against the present accused/applicant, in a nutshell, are that he used to beat his wife after consuming alcohol, and on 30.06.2023, he had forcefully entered the house by breaking the door and had started beating her. When the mother-in-law of the complainant had



come to rescue her, the applicant had started beating her due to which the bone of her right hand was fractured. The applicant had also beaten his children and was about to throw his mother down the stairs but it was only after the intervention of the neighbours that she was saved.

10. This Court has perused the MLC of mother-in-law of the complainant namely Savitri Devi, which has been filed on record, which reveals that she had sustained grievous injury due to being beaten by the present accused/applicant. The MLC also records in history that the victim was beaten by her son on 30.06.2023 at about 11:00 PM, which had caused swelling and tenderness on the right forearm and the shoulder of the victim. She was further suggested to visit orthopaedic doctor for further evaluation of her arm. Later, it was revealed that she had suffered fracture of mid-shaft of forearm.

11. It is duty of the Court to deal with such acts of violence against the vulnerable victims such as 65 year old mother of the accused, and his children, with heavy hands. Such actions, warrant a firm response from the court to protect the vulnerable and uphold the principles of justice. In the present case, the applicant habitually subjected his wife to physical abuse after consuming alcohol. On 30.06.2023, when the complainant's mother-in-law had attempted to intervene to save her daughter-in-law, she too became a victim as well, suffering a fractured right hand after being subjected to violence by her own son. The accused also attacked his own children and, shockingly, posed a threat to his mother's life by attempting to throw her down the stairs, which shows his intention and knowledge as to what repercussions can be caused by his act. The life of the mother was saved timely by intervention of neighbours.



12. It has been strongly and repeatedly argued by the learned counsel for the applicant that the accused's mother inadvertently suffered injuries while attempting to intervene as he was assaulting his wife not mother. However, this Court strongly rejects this argument, considering it both shocking and absurd. This attempt to rationalize the accused's violent actions by shifting blame onto the victim's mother troubles the judicial conscience of this Court. This Court notes that violence, under any circumstances, cannot be excused. In the present case, the accused's attempt to justify his actions by claiming that the mother stepped in between while he was assaulting his wife lacks both moral and legal justification. Such an argument side-steps the core issue – the accused's unwarranted use of force against family members, including his own mother. The gravity of the situation is further highlighted by the fact that the accused not only subjected his spouse to violence but also extended this brutality to his own mother. This stark reality, irrespective of any attempted justification, emphasizes the pressing need for the Court to respond decisively to such cases.

13. The case at hand, is one such, where the mother-in-law finds herself compelled to shield her daughter-in-law from her own son's violent actions. This fact itself is distressing as a mother feels the need to protect her daughter-in-law from her own son, and when she tries to do so, she herself gets beaten up brutally by her own son. This Court also notes that the MLC of the mother-in-law of the complainant clearly documents the resultant grievous injuries, indicating swelling and tenderness on the right forearm and shoulder of the victim. The MLC serves as a compelling testament to the grave nature of the injuries inflicted upon her by the present accused/applicant. The examination revealed that she endured severe



beatings from her son on the night of June 30, 2023, at around 11:00PM. This medical evidence substantiates the gravity of the accusations against the accused.

14. Considering the overall facts and circumstances of the case, and that the allegations against the present accused/applicant are serious in nature and the mother-in-law of the complainant i.e. mother of applicant herein had sustained grievous injuries on her right arm including fracture, and that the charges are yet to be framed in the present case, this Court is not inclined to grant bail to the present accused/applicant, at this stage.

15. Accordingly, the present bail application stands dismissed.

16. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

17. The order be uploaded on the website forthwith.

**SWARANA KANTA SHARMA, J**

**DECEMBER 14, 2023/zp**