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

Date of Decision: February 12, 2015

+ **BAIL APPLN. 189/2015**

PRABHJOT SINGH @ BHOLI Petitioner
Through: Mr. A.K. Tripathi, Advocate

versus

STATE (NCT OF DELHI) Respondent
Through: Mr. Naveen Sharma, Additional
Public Prosecutor for respondent-
State with Inspector Subhash
Mr. M.S. Yadav, Advocate for
complainant

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

CrI.M.A. 1356/2015 (Exemption)

Allowed subject to all just exceptions.

BAIL APPLN. 189/2015

Petitioner is seeking pre-arrest bail in FIR No.627/2014 under Sections 307/326/34 of IPC registered at P.S. Tilak Nagar, Delhi in which he is accused of throwing acid on the left leg, left arm and right forearm of the complainant, who is a lady. The acid burns sustained by the complainant have been opined to be of grievous nature.

Learned counsel for petitioner submits that petitioner is a senior citizen and is diabetic and is unnecessarily dragged into this case due to property dispute and co-accused-*Dalbir Singh @ Beera* is already on bail and so, on parity, petitioner also deserves the concession of pre-arrest bail.

This bail application is strongly opposed by learned Additional Public Prosecutor for respondent-State, who has drawn the attention of this Court to the FIR as well as the status report and it was submitted that co-accused-*Dalbir Singh @ Beera* was only driving the vehicle, who has raised the plea of *alibi*, and the case of petitioner is not at par with his co-accused and so, petitioner does not deserve the concession of pre-arrest bail. It was submitted by learned Additional Public Prosecutor for respondent-State that the antecedents of petitioner are not clean as he is involved in other criminal cases.

Apex Court in *Jai Prakash Singh v. State of Bihar*, (2012) 4 SCC 379 has reiterated that anticipatory bail is an extra ordinary privilege, which should be granted only in exceptional cases. The parameters to be considered while dealing with application for *pre-arrest bail*, as spelt out in *Jai Prakash Singh (supra)* are as under:-

“112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

- (i) the nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
- (ii) the antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;*
- (iii) the possibility of the applicant to flee from justice;*

- (iv) the possibility of the accused's likelihood to repeat similar or [the] other offences;*
- (v) where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;*
- (vi) impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;*
- (vii) the courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*
- (viii) while considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*
- (ix) the court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
- (x) frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”*

Upon hearing and on perusal of the FIR of this case, the bail order of co-accused, the status report and the material on record, I find that the case of petitioner infact falls under Section 326-A of IPC, which provides for minimum of sentence of 10 years.

Considering the nature and the gravity of the case set up against

petitioner, I find that his case is not at par with co-accused-*Dalbir Singh @ Beera* and in view of the gravity of the offence purportedly committed by petitioner, this Court is not inclined to extend the concession of pre-arrest bail to petitioner.

Accordingly, this application is dismissed while not commenting upon merits of this case lest it may prejudice petitioner when he seeks regular bail before trial court.

(SUNIL GAUR)
JUDGE

FEBRUARY 12, 2015

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