

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

Judgment delivered on : December 07, 2015

+ **BAIL APPLN. 1352/2015**

SUBHASH CHAND Petitioner

Through: **Mr. Ankush Narang, Advocate.**

versus

STATE (NCT OF DELHI) Respondent

Through: **Ms. Manjeet Arya, Additional Public
Prosecutor for the State with Sub-
Inspector Amit, Police Station Kotla
Mubarakpur, Delhi.**

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. The present petition is filed under Section 438 of IPC seeking anticipatory bail in a case registered as FIR No.613/2015 under Sections 279/341/307/506/323/34 of IPC, registered at Police Station Kotla Mubarakpur, Delhi.

2. The present case is registered on the statement of complainant – Rishi Kumar stating that on 24.05.2015, an unattended handcart was parked in front of the main gate of complainant's house, and the complainant asked his helper – Mukesh to move the cart away from the gate. While moving the cart away, it hit the scooter bearing

No.DDK-4467 belonging to Rohan, who was alleged to be riding rashly. He parked the scooter in the middle of the road and slapped Mukesh 10-12 times, used abusive language and threatened him that he will kill him. It is alleged further that later on, when complainant was walking in the lane, co-accused Rohan and Choti came to him and told him that their father is calling him and the complainant went alongwith them. After few minutes of walk, the complainant saw Ashok Chaudhary-father of Rohan alongwith his relatives namely Subhash, Neeraj, Sanjay accompanied with Har Gulal standing. Thereafter, the complainant refused to go forward due to fear but Rohan and Choti dragged him in front of House No.58, Bapu Park. It is also alleged that Har Gulal had abused the complainant and threatened to kill him and his family. It is also alleged that Rohan and Choti held both of the hands of Rishi while Neeraj, Subash and Ashok punched and kicked the complainant. During the scuffle, it is alleged that Subhash hit the complainant's head with a lathi and thereafter accused Hargulal took the lathi and hit the complainant's head with it, which led to registration of the present case.

3. Mr. Ankush Narang, counsel for the petitioner contended that

on a bare perusal of the MLC of the complainant, the case under Section 307 is not made out qua the petitioner and at best the case under Section 323 of IPC is made out, which is a bailable offence. It is further contended on behalf of the petitioner that the other co-accused have already been granted anticipatory bail in the present case by the Sessions Court.

4. Counsel for the petitioner further contended that in compliance of order dated 10.06.2015 passed by the Sessions Court, the petitioner had already joined the investigation in the present case twice, during the pendency of the anticipatory bail application. To rebut the prosecution story, counsel for the petitioner has also narrated a different version of the incident, which however is not the subject matter of the present bail petition and can only be decided while leading cogent evidence during trial of the case.

5. Lastly, counsel for the petitioner contended that the petitioner has never misused the liberty granted by the Sessions Court and since the petitioner has already joined the investigation and is a law abiding and peace loving citizen of the country, has deep roots in the society, and has a family to support and as such there are no chances of his

absconding or tampering with the prosecution case.

6. On 13th July 2015, when the present bail application came up for hearing before this Court, the petitioner was directed to appear before the Investigating Officer on 14th July 2015 at 4.00 PM and thereafter, as and when called and subject to petitioner joining the investigation, the petitioner was granted interim protection in this case.

7. Ms. Manjeet Arya, Additional Public Prosecutor appeared on behalf of the State and submitted a status report. As per status report, the complainant as well as injured – Mukesh Kumar were medically examined and the doctor has opined the nature of injury as SIMPLE. It is also stated in the status report that except the petitioner, all other accused persons have been granted anticipatory bail by the Sessions Court. Regarding joining the investigation of the case, it is reported that the petitioner has also joined the investigation five times and during investigation, it is stated by the petitioner that he did not hit the complainant with lathi. However, the lathi (stick) is yet to be recovered. At last, it is reported that the petitioner is found to be previously involved in case registered as FIR No. 162/13 under

Section 188 of IPC, Police Station Kotla Mubarakpur, Delhi.

8. I have heard the submissions made on behalf of both the sides and also perused the impugned order and the material placed on record.

9. Considering the fact that in compliance of order dated 10.06.2015 passed by the Sessions Court, the petitioner has joined the investigation; the fact that the other co-accused have already been granted anticipatory bail in the present case; the nature of injury being simple in nature as opined by the doctor and the fact that the lathi (stick) is yet to be recovered in this case, this Court is of the opinion that the interim protection given to the petitioner vide order dated 13.07.2015 is made absolute. Consequently, it is ordered that in the event of arrest of the petitioner – Subhash Chand, he be admitted to bail on furnishing a personal bond in the sum of Rs.20,000/- with two sureties of the like amount to the satisfaction of the arresting officer. Additionally, the petitioner is directed to appear before the Investigating Officer as and when required, he shall not tamper with the evidence, he shall not influence the prosecution witnesses and shall not leave the country without prior permission of the Court.

10. With aforesaid directions, the present bail application stands disposed of.

11. Dasti.

(P.S.TEJI)
JUDGE

DECEMBER 07, 2015
pkb