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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ BAIL APPLN. 1690/2015

Date of Decision: 21st December, 2015

PRAKASH BHAGAT

..... Petitioner

Through Mr.Saket Kumar, Adv.

versus

STATE

..... Respondent

Through Ms.Manjeet Arya, APP for the State
With SI Harinder, PS Aman Vihar.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J. (Oral)

1. The present bail application filed under Section 438 of the Code of Criminal Procedure, 1973, is preferred by the petitioner for seeking anticipatory bail in the case registered vide FIR No.893/2015 under Section 308/34 of Indian Penal Code at Police Station Aman Vihar, Delhi.

2. The facts giving rise to the present bail application are that on 26th June, 2015 at about 9.00 p.m., the complainant/injured, who was a TSR driver by profession, de-boarded the passengers from his TSR at Sukhi

Nahar and was going towards his house. His father met him on the way

Signature Not Verified

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at Veer Bazar when he enquired about his wellness. One boy who happened to be the neighbour of his father, passed some comments on his father. Irked over it, his father took a piece of brick and hit the same on the head of the boy with the intention to kill him. In the meantime, complainant's step mother Sanju Devi and her son Deepak also reached the spot and assaulted him with bricks and punches. The complaint was not made on that day of the incident being a family matter.

3. On 24th July, 2015, the complainant/injured came at Police Station Aman Vihar and gave his statement for taking legal action on his complaint and, thereafter, a case being FIR No.893/2015 under Sections 308/34 of the Indian Penal Code was registered at Police Station Aman Vihar, Delhi.

4. The first application of the petitioner was dismissed by the learned Sessions Judge, Rohini Courts on the ground that the previous similar application of the applicant was dismissed on 31st July, 2015.

5. The petitioner in the present case moved another application seeking anticipatory bail which was granted by learned Additional Sessions Judge, Rohini Court on 3rd August, 2015 on the ground of nature of relationship between the parties and the delay in registration of FIR. The petitioner moved a third application which was dismissed by learned Special Judge, (P.C. Act), CBI-III, Rohini Court on 11th August, 2015 on

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the ground that the counsel for the applicant did not show any change of circumstances and on the ground that the application did not have any merit. The son of the applicant namely Deepak also moved an application under Section 439 of Cr.P.C. for grant of regular bail. The said application was granted and the learned Additional Sessions Judge, Rohini Court, granted regular bail to the petitioner.

6. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in the case as the complainant is the step son of the petitioner and there is property dispute between the petitioner and the complainant. It is next contended that the Trial Courts failed to appreciate that the incident occurred on 26th June, 2015 and the FIR was lodged on 24th July, 2015 after a lapse of almost one month which shows the malafide intention of the complainant. It is alleged that the complainant had illegally occupied the petitioner's house against which the petitioner had filed a civil suit for recovery and possession which is still pending. It is further submitted by learned counsel for the petitioner that in order to grab the property of the petitioner, the complainant had implicated the petitioner by lodging a false FIR.

7. Learned APP for the State submits that during the course of investigation, an unscaled site plan was prepared and accused Deepak, son of Mr. Prakash Bhagat was arrested. He was granted bail vide order

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dated 10th August, 2015 passed by Additional Sessions Judge, Rohini Courts. Thereafter, co-accused Smt.Sanju Devi, who was formally arrested in the present case on 18th August, 2015, was also granted anticipatory bail on the ground that she is a female and has no direct role in inflicting injuries on the person of the complainant.

8. A status report has been filed by the State.

9. Learned APP for the State has further submitted that vide order dated 20th August, 2015 passed by this Court, the petitioner was directed to join the investigation. The petitioner joined the investigation on 21st August, 2015 but thereafter did not co-operate in the investigation. Learned APP for the State has further submitted that the weapon of offence i.e. brick is yet to be recovered in this case and, therefore, custodial interrogation of the petitioner is required in order to recover the case property.

10. Learned counsel for the petitioner has assured the Court that the petitioner had joined the investigation on 21st August, 2015 and would also join the investigation as and when called upon in future.

11. I have heard learned counsel for the parties and perused the records. In view of the fact that the petitioner was earlier granted anticipatory bail and he joined the investigation on 21st August, 2015,

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there is no need for custodial interrogation of the petitioner.

12. In the facts and circumstances, it is directed that in the event of arrest, the petitioner/accused Prakash Bhagat shall be admitted to anticipatory bail subject to his furnishing personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the arresting Officer. The petitioner is directed not to influence the prosecution witnesses or tamper with the evidence and shall not leave the country without prior permission of the Court concerned.

13. With aforesaid directions, the present application is disposed of.

14. The observations made above shall not have any effect on the merits of the case.

Dasti.


P.S. TEJI, J

DECEMBER 21, 2015

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