

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

Judgment delivered on : November 05, 2015

+ BAIL APPLN. 2011/2015

RAM DAYAL

..... Petitioner

Through Mr. C.M. Thapliyal and Mr.S.P. Paul,
Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Ms.Manjeet Arya, Additional Public
Prosecutor for the State

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. The present bail application filed under Section 439 of the Code of Criminal Procedure, 1973, is preferred by the petitioner for seeking bail in the case registered vide FIR No.382/2014 under Section 186/353/307/399/402/34 of Indian Penal Code and under Section 25/27 of Arms Act, Police Station Saket, Delhi.

2. Mr. C.M. Thapliyal, Advocate appears on behalf of the petitioner and submits that no incriminating article was recovered from the possession of the petitioner or at his instance and the

petitioner is in judicial custody since 10.06.2014. It is further contended on behalf of the petitioner that investigation of the case is complete, the charge sheet of the case has been filed and all the public witnesses including the injured has also been examined and the petitioner is no more required for the purpose of investigation or inquiry.

3. Counsel for the petitioner further contended that the FIR was registered on the statement of ASI Ramesh Chander and even in his testimony, he has not assigned any specific role to the accused/petitioner for commission of offence punishable under Section 307 of IPC.

4. It is further contended that the injury on the person of the complainant (PW-4) was opined as simple blunt, however in the cross examination, the complainant deposed that he did not receive any injury. The testimony of the complainant is not corroborated with the medical evidence. The complainant has made improvements in his statement before the court.

5. It is further contended on behalf of the petitioner that the public

witness namely Sameer Verma (PW-2) did not support the prosecution case on material points. He has made comprehensive improvements in his examination-in-chief over his statement recorded under Section 161 Cr. P.C.

6. It is informed that the petitioner had also moved the bail application before the learned Additional Sessions Judge-(2) (South), New Delhi, which was dismissed vide order dated 21.08.2015, which is impugned in the present petition. While impugning the said judgment, it is urged that even in the impugned order, the learned Additional Sessions Judge did not find any ingredient of Section 307 of IPC.

7. Counsel for the petitioner has also placed on record the order dated 7th August 2014 passed by the learned Additional Session Judge-3, South District, Delhi, whereby the co-accused – Harish has already been granted bail case.

8. It is submitted that the petitioner is a permanent resident of Delhi, has clean past antecedents, no criminal case is pending against him and he is not a previous convict therefore the petitioner ought to

be granted bail in the aforesaid case.

9. The learned Additional Sessions Judge-2 (South), New Delhi, keeping in view the audacity and temerity of the accused persons, rejected the bail application of the petitioner.

10. To oppose the contentions raised by learned counsel for the petitioner, Ms.Manjeet Arya, Additional Public Prosecutor for the State submitted that the order passed by the learned Additional Sessions Judge is a well reasoned order and does not call for any interference by this Court. The learned Additional Sessions Judge, while rejecting the bail to the accused has rightly observed that the act of accused persons cannot be separated as it was night time and attempt was made and the victim was assaulted. Some of the accused persons exhorting each other and they acted in unison reflecting that the applicant had a common intention and found that it was a conjoint assault by the accused persons and the petitioner too was a party to the same.

11. The State has filed its status report and according to the status report, the case is pending trial before the learned Additional Sessions

Judge, charge has been framed against all the accused and 11 prosecution witnesses out of 28 witnesses, have been examined; the petitioner/accused in the present application is resident of District Madhubani, Bihar and the apprehension regarding his jumping the bail is expressed on behalf of the State. It has been apprised that the next date before the trial court fixed in the case is 17.11.2015

12. After considering the contents of the present petition as well as the submissions made by learned Additional Public Prosecutor for the State and on perusal of the impugned order and the MLC of the complainant Ramesh, which does not indicate any injury on the body of the person, and the fact that the co-accused Harish has already been granted bail in this case, this Court is inclined to grant bail to the petitioner – Ram Dayal. Accordingly, the petitioner/accused – Ram Dayal is admitted to 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 Trial Court. 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. However, it goes without saying that any observation made in the aforesaid order shall not affect the merits of the case.

(P.S.TEJI)
JUDGE

NOVEMBER 05, 2015
pkb