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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 05.10.2015

**BAIL APPLN. 2111/2015, CRL.M.(BAIL) 7877/2015 & CRL.M.A.
14646/2015**

AKBAR

..... Applicant

Through: Mr Jaspreet S.Rai and Mr Ishan
Rohan, Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr Rajat Katyal, APP with SI
Rajender Singh, PS- Nand Nagri.

**CORAM:
HON'BLE MR JUSTICE SIDDHARTH MRIDUL**

SIDDHARTH MRIDUL, J (ORAL)

1. The present is an application under Section 438 of the Code of Criminal Procedure, 1973 seeking anticipatory bail in FIR No.890/2015 under Section 307 IPC registered at Police Station- Nand Nagri, Delhi.

2. Mr Jaspreet S. Rai, learned counsel appearing on behalf of the applicant, would urge that the MLC of the complainant in the subject FIR clearly belies his statement to the police that the applicant had assaulted him with a knife on his neck. He relies upon page 27 of the present application in this behalf . Mr Rai would then urge that the alleged incident took place around 8 p.m. However, the MLC of the complainant clearly reveals that the latter was taken to hospital only at 12.20 a.m., i.e., more than four hours after the alleged incident. Mr Rai would also urge that the applicant has been falsely implicated and he had no motive to assault the complainant and, on the contrary, the complainant in the subject FIR against whom the applicant had registered a cross-FIR was the one who summoned him to the spot where the alleged offence is stated to have been committed on account of his resentment at losing clients to the applicant. It is further urged on behalf of the applicant that the latter has filed an RTI application with the Police Commissioner seeking the call detail record of the applicant in order to establish that the subject FIR is a consequence of personal enmity on account of business rivalry.

3. Mr Rai, learned counsel appearing on behalf of the applicant, admits that the latter had previous involvement but hastens to clarify that he has not been convicted in any of those cases.

4. On the contrary, Mr Rajat Katyal, learned APP appearing on behalf of the Police, states that the complainant in the subject FIR is in judicial custody in the FIR registered by the present applicant against him. Mr Katyal would then urge that in view of the gravity of the offence and the involvement of the applicant in other criminal cases, it would not be just, fair and appropriate to admit him on anticipatory bail at this stage.

5. In the present case it is observed that the complainant and the applicant operate rival businesses. It is further noticed that the complainant invited the applicant to discuss how to resolve their inter se disputes which were detrimental to the complainant's business interest. However, the FIR at page No.27 reads as under:-

“.....He said that do you not know that I am Akbar and started abusing me and pecking a fight during which it took out a long knife from the motorcycle boot and attacked me in fury with the intention to cause my death to which I escaped he inflicted second attack on my chest.....”

6. A perusal of the above *prima facie* demonstrates that it was the applicant who struck the first blow and drew first blood. It also cannot be lost sight of that the applicant has had other cases registered against him and is a bad character of the area.

7. Since Mr Rai, learned counsel appearing on behalf of the applicant assails the order dated 22.09.2015 passed by the District and Sessions Judge, Shahdara District, Delhi rejecting the applicant's petition for anticipatory bail, it becomes necessary for me to comment on it. The District and Sessions Judge relied upon the decisions of the Supreme Court in ***Anwari Begum v. Sher Mohammad, 2005 AIR (SC) 3530*** and ***Gobarbhai Naranbhai Singala v. State of Gujarat, 2008 AIR (SC) 1134*** and applying them to the facts and circumstances of the application for anticipatory bail filed on behalf of the applicant, came to a decision that the application could not be granted at this stage.

8. I see no reason to disagree with the order passed by the District and Sessions Judge.

9. In view of the nature of the accusations against the applicant and the severity of the punishment in the event of conviction and given his

antecedents, in my view, the present is not a fit case for grant of pre-arrest bail.

Dismissed.

SIDDHARTH MRIDUL, J

OCTOBER 05, 2015

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