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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Judgment delivered on: 14th October, 2015
+ **BAIL APPLN. 2211/2015**

PANKAJ GAUTAM Petitioner
Represented by: Mr.Himanshu Upadhyay and
Mr.Shivam, Advs.

versus

STATE Respondent
Represented by: Mr.Amit Chadha, APP for
the State with SI Govind
Singh, PS Uttam Ngr, Delhi
in person.
Injured in person.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

Crl. M.A. No.15228/2015 (Exemption)

Exemption allowed, subject to all just exceptions.

Accordingly, the application is allowed.

BAIL APPLN. 2211/2015

1. Vide the present petition under Section 438 Cr P C, petitioner seeks a direction for releasing him on bail in the event of arrest in case FIR No.1164/2015 registered at Police Station Uttam Nagar, Delhi for the offences punishable under Section 307/498A/34 of the IPC

2. The petitioner is husband of complainant/injured Neelam and the allegations against him are that he alongwith co-accused/mother of petitioner on 04.09.2015 at about 11.00 hrs night when the injured was present in the house, her mother in law stated to the petitioner that she (injured) was disturbing them by calling the police time and again, why

they should not kill her. Co-accused/mother of petitioner caught hold the hands of injured and petitioner pushed her and put her down and sat on her and closed the nose of injured with hands and poured poison vial in her mouth and closed the mouth. After some time they went outside the room leaving her behind and locked the door. Somehow, she get up and called the police at 100. Accordingly, PCR van reached there and she was shifted to hospital.

3. Learned counsel appearing on behalf of petitioner submits that in the bail application of co-accused / mother of petitioner, State has been put to the notice and pending for 03.11.2015. Therefore, on parity, he wants notice be issued in this petition as well and status report be called from the State. He further submitted that the CD of CCTV recording has been annexed to the petition and the presence of petitioner is not in the house at the very relevant time.

4. On this score, learned Trial Court recorded that CD of CCTV perused by Shri Mukesh Kumar Gupta, learned Additional Sessions Judge on 18.09.2015 and observed that CD pertains to the front camera and street of the house and does not indicate any movement either of the complainant or of petitioner. It was also observed that CD in respect of the alleged mobile phone records has not shown anything with clarity though voices of some scuffle and verbal abuses have been heard.

5. Learned APP appearing on behalf of the State has strongly opposed the present application and submitted that petitioner is avoiding his arrest as NBWs were issued against him and the alleged incident occurred at 11.00 night and petitioner being the husband of injured is the best person

to come up with the fact that who administered the substance, which has been confirmed by the MLC dated 05.09.2015. Further, the petitioner is husband of injured and he cannot seek parity with petition filed by his mother wherein notice has been issued.

6. It is also urged that keeping the seriousness of the offence and report of the MLC dated 05.09.2015 into view, the custodial interrogation of petitioner is required, hence the petition may not be allowed.

7. Keeping in view the facts recorded above and the seriousness of the allegations against petitioner and fact that his custodial interrogation is required by police, I am not inclined to allow the instant petition.

8. It is informed by learned APP that at the time of administering the poisonous substance to injured, her 10 months old baby was left in the custody of petitioner or his mother. Learned counsel for petitioner has admitted that baby is in custody of petitioner. Accordingly, the petitioner is directed to hand over the custody of child to the injured/complainant today in the evening by 5 O'clock.

9. Consequently, instant petition is hereby dismissed with above direction.

Crl.M (Bail) No.7954/2015

Dismissed as infructuous.

**SURESH KAIT
(JUDGE)**

OCTOBER 14, 2015

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