

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

Judgment delivered on : December 14, 2015

+ **BAIL APPLN. 2245/2015**

ARUN SALUJA

..... Petitioner

Through **Mr.Rakesh Mukhija & Mr.K.K.
Mukhija, Advocates**

versus

STATE

..... Respondent

Through **Mr. G.M. Farooqui, Additional Public
Prosecutor for the State with Sub-
Inspector O.P. Mandal, Police Station
Pahar Ganj.
Mr.Balwant Sud, Advocate for the
complainant.**

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. The present petition is filed under Section 438 of Cr. P.C. seeking anticipatory bail in a case registered under FIR No.610/2015 under Sections 323/341/506/34 of Indian Penal Code, registered at Police Station Pahar Ganj, New Delhi.

2. The present case is an outcome of a complaint lodged by Smt. Sunita Rani, in which she had levelled the allegation of molestation,

snatching and abusing on the petitioner alongwith his father Gulshan Lal Saluja. The injuries caused to the complainant in her MLC was opined to be grievous and the sections of IPC in FIR were amended and Sections 509/354 of IPC were also added in this case.

3. Upon filing an application on 9th October 2015, by both the accused persons, they were granted anticipated bail till 13.10.2015 and they were directed to join the investigation. Both the accused joined the investigation on 12th October 2015. On 13th October 2015, the Trial Court admitted the co-accused - Gulshan Lal Saluja on bail but the petitioners bail was rejected vide order dated 13th October 2015, on the ground that he had snatched the purse and had also hit on the chest of the complainant.

4. Aggrieved by the aforesaid order of learned Additional Sessions Judge, the petitioner has preferred the present petition seeking bail.

5. Mr. Rakesh Mukhija, counsel appearing on behalf of the petitioner submits that the complainant has roped the petitioner in a false case, however the actual cause of dispute is of a civil nature and also submitted his version of the case. Mr. Balwant Singh, husband of

the complainant started harassing the family of the petitioner on one pretext or the other. As per counsel for the petitioner, on 26th August 2015, the son of the complainant entered in the shop of the petitioner and started abusing and fighting with the petitioner and his father and upon seeing this, the people gathered outside the shop of the petitioner. As per petitioner, complainant and her son threatened the petitioner and his father of dire consequences and in support of this, the petitioner has produced audio recording made at that point of time through mobile phone. Thereafter, it was father of the petitioner who made a call to the police control room at 100 number and in counter blast, the complainant made a complaint to police officials, based on which the present FIR was registered against the petitioner and his father on 11th September 2015.

6. Counsel for the petitioner has contended that there is no specific allegation in the FIR at the first instance, that the petitioner had snatched her purse or tried to outrage her modesty and it is only after recording of her statement under Section 164 of Cr. P.C., and on the basis of subsequent development in the statement of the complainant, which is apparently false and an afterthought and

contrary to her earlier statement, the offence punishable under Section 354 IPC has been inserted. It is also contended on behalf of the petitioner that the offences as made out in the FIR are bailable but in order to attract the provisions of non-bailable offence, the complainant has levelled the allegations of harming her modesty. In response to the aforesaid submission, counsel for the petitioner referred the CCTV footage and audio recording, which demonstrate that the version of the complainant is false and the petitioner and his father are being roped into a false case.

7. Counsel for the petitioner also submitted that the petitioner has already joined the investigation during the preliminary inquiry on 31.08.2015, 05.09.2015 and 09.09.2015 and has extended full cooperation for facilitation of the investigation. Lastly, it is contended that the petitioner is just about 33 years old and having a young child of one year and has deep roots in the society and there is no apprehension of his absconding or tampering with the prosecution evidence. Counsel for the petitioner submitted that he has instructions to undertake that the petitioner is ready to join the investigation as and when required, therefore the petitioner ought to be granted bail in

this case.

8. In support of his submissions, counsel for the petitioner relied upon the decisions reported in the following judgments:”

- a) Parveen Bansal & Ors v. The State of Delhi, 2007 (2) JCC 1415;
- b) Rajneesh Kumar Singhal v. State, 89 (2001) DLT 511 (FB);
- c) Parminder Singh & Another v. The State & Anr., 2002 (1) JCC 312;
- d) Ashok Kumar Gupta v. State, 141 (2007) DLT 94;
- e) Roop Madan v. State, 1997 AD (Cr.) DHC 195;
- f) M/s. Zandu Pharmaceuticals Works Ltd. & Others v. Mohd. Sharaful Haque & Anr, 2005 (3) JCC 1583;
- g) Madhavrao Jivajirao Scindia & Anr v. Sambharirao Chandrohrao Angre & Anr, 1988 SCC (Cri.) 234;
- h) Anil Mahajan v. Commissioner of Customs, 2000 (2) JCC Delhi 302;
- i) Gurbaksh Singh Sibia v. State of Punjab, 1980 Cr.LJ 1125; and
- j) Court on its own Motion v. State (NCT of Delhi), 2004 (1) JCC 308 (Delhi)

9. On 16th October 2015, when the present petition came up for hearing before this Court, counsel for the complainant submitted that

the police is mixed up with the petitioner/accused and after considering the facts and circumstances of the case, this Court had granted interim protection to the petitioner and directed him to join the investigation as and when required and to not tamper with the evidence.

10. Upon notice, Mr. G.M. Farooqui, learned Additional Public Prosecutor has opposed the aforesaid submissions of counsel for the petitioner and has filed a status report in the matter, in which it is averred that the doctor has opined on the result of MLC of the complainant – Sunita Rani that the injuries on her body are grievous and the complainant has supported her allegations in her statement under Section 164 of Cr. P.C. It is further stated that both the accused have joined the investigation of the case and co-accused Gulshan Lal Saluja has been granted bail vide order dated 13th October 2015.

11. I have heard the submissions made by learned counsel for the petitioner and have gone through the Status Report filed on behalf of the State and the material placed on record.

12. After careful consideration of the submissions and counter submissions made by both the sides, this court observes that the

CCTV footage of the incident, as procured from Hotel Northern Place, the alleged purse is not visible and from the analysis of audio compact disc, it is heard that the son of the complainant was threatening and abusing the petitioner and his father and in the FIR, there was no allegation or averment of the complainant that the petitioner had snatched her purse and tried to outrage her modesty, at the first instance.

13. Considering the facts and circumstances of the case and the fact that the petitioner has already joined the investigation and has not misused the concession of anticipatory bail and cooperated in the investigation of this case, this court deems it appropriate to agree with the interim protection granted to the petitioner vide order dated 16th October 2015. Accordingly, the order dated 16th October 2015 is made absolute and it is ordered that in the event of arrest of the petitioner – Arun Saluja, he be admitted to bail on furnishing a personal bond in the sum of Rs.30,000/- with two sureties of the like amount to the satisfaction of the arresting officer. Petitioner is directed to appear before the Investigating Officer as and when required. The petitioner is also directed not to tamper with the

evidence, not to influence the prosecution witnesses, and shall not leave the country without prior permission of the concerned Court.

14. Before parting with the aforesaid decision, it is made clear that anything observed in this order shall not have any bearing on the merits of the case during trial.

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

16. Dasti.

(P.S.TEJI)
JUDGE

DECEMBER 14, 2015
pkb