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

Date of Decision: 13.01.2016

+ **BAIL APPLN. 73/2016 and CRL.M.A. 538/2016 (Exemption)**

SHIV KUMAR Applicant
Through Mr. M.K. Duggal, Advocate
versus

STATE (GOVT OF NCT OF DELHI) Respondent
Through Mr. Ravi Nayak, APP for the State
ASI Shyam Sunder, P.S. Mukherjee
Nagar
Mr. Ajay Kumar Pipaniya, Mr. Rohit
Arora and Mr. Paras Punyani, Advs. for
the complainant along with complainant

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J. (ORAL)

1. The present is an application under Section 439 of the Code of Criminal Procedure, 1973 (Cr.P.C) seeking grant of regular bail in FIR No. 1254/2015 under Section 307 IPC registered at Police Station- Mukherjee Nagar, Delhi.
2. The applicant has been in judicial custody since 13th September, 2015.
3. Although the charge-sheet in the subject FIR has been filed, however, the charges have yet to be framed.

4. Learned counsel appearing on behalf of the applicant herein would urge that the latter has been falsely implicated in the present case and that he is innocent. Learned counsel would then urge that the subject FIR has been registered at the behest of the applicant's second wife who sought to deny him the company of their eight year old son Pratyush.

5. On the other hand, Mr. Ravi Nayak, learned APP appearing on behalf of the official respondent states that the charges levelled against the applicant are grave and serious and there is a distinct possibility that in the event the applicant is released on bail, he may threaten the complainant herein and her minor son who have deposed against him in the present case.

6. I have perused the extract of MLC Register dated 13th September, 2015 maintained by Babu Jagjivan Ram Hospital, Delhi, which reveals that the complainant suffered grievous injuries *inter alia* on the neck and on the upper torso across the chest. The said injuries are alleged to have been caused as a consequence of physical assault by the applicant using a kitchen knife.

7. There is no gainsaying the circumstance that the injuries have been sustained on a vital part of the body.

8. It is also observed that there are previous complaints dated 19th August, 2014 and 15th November, 2014 lodged by the complainant (wife) against the applicant (husband) as well.

9. As observed hereinabove, the charges have yet to be framed against the applicant and the testimonies of the complainant (victim) as well as her minor son (who has deposed against the applicant- father in a statement made before the Magistrate dated 15th September, 2015 under Section 164 Cr.P.C.) are yet to be recorded by the trial Court. The apprehension expressed on behalf of the prosecution that the applicant's release on regular bail would endanger the life and limb of the victim and her minor son cannot be said to be unfounded.

10. In view of the foregoing, in my view, the present bail application is devoid of any merit and the same is accordingly dismissed.

SIDDHARTH MRIDUL, J

JANUARY 13, 2016

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