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

+ **BAIL APPLN. 84/2016**

CHANDAN GUPTA

..... Petitioner

Through: **Mr.V.P.Singh Bidhuri, Advocate.**

versus

STATE (NCT OF DELHI)

..... Respondent

Through: **Ms.Kusum Dhalla, APP for the State
with SI Sahi Ram, Ps Sangam Vihar.**

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **15.01.2016**

Crl.M.A. No.638/2016

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

BAIL APPLN. 84/2016

1. The present bail application has been filed by the petitioner under Section 439(1a) Cr.P.C. seeking regular bail in case FIR No.722/2015 under Section 307/506/34 IPC & under Sections 25/27 Arms Act registered at PS Sangam Vihar, New Delhi.
2. Notice. Learned APP for the State accepts notice.
3. I have heard Mr.V.P.Singh Bidhuri, Advocate for the petitioner as well as Ms.Kusum Dhalla, APP for the State.
4. On behalf of the petitioner, it has been submitted that the petitioner also suffered injuries in the occurrence and got eight stitches. Learned

counsel for the petitioner has further submitted that no case under Section 307 IPC is made out as the bullet has hit only the thigh of the injured and not any vital portion of the body. The injured was discharged on the same day, hence it is a fit case for grant of bail to the petitioner, who has been in custody since 30.11.2015.

5. In this case, FIR has been registered on the basis of the statement made by the complainant/injured, who stated before the police that one of his acquaintance Ajjad had some dispute with Amol Gupta and his brothers. On the night intervening 12/13th November, 2015 in the midnight at about 12.00 am Amol Gupta knocked his door. When he came out, he saw Amol Gupta alongwith his brothers Chandan Gupta, Ajay Gupta and Aman Gupta present there and they inquired from him about Ajjad and Guldeen. When the complainant pleaded ignorance about their whereabouts, Amol Gupta and Chandan took out their respective kattas. Ajay and Aman were having dandas. They started abusing and threatening to kill him. Amol Gupta and Chandan also pointed out kattas towards him and while one of their associate Babua hit him with an iron rod on his head, Chandan aimed katta towards him and fired. When he tried to save himself, the bullet hit him in his left thigh. After he fell down, he was kicked and given beatings with dandas and rods. PCR was informed. As the police did not respond quickly, he was removed to Trauma Centre AIIMS by his brother-in-law.

6. It has been repeatedly held by the Supreme Court that among other circumstances, the factors to be borne in mind while considering an application for bail are : (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of

conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and (viii) danger, of course, of justice being thwarted by grant of bail.

7. In the case **Kalyan Chandra Sarkar vs. Rajesh Ranjan @ Pappu Yadav and Anr. (2004) 7 SCC 528** it has been held as under:

'In regard to cases where earlier bail applications have been rejected there is a further onus on the court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration if the court is of the opinion that bail has to be granted then the said court will have to give specific reasons why in spite of such earlier rejection the subsequent application for bail should be granted.'

8. In this case, thrice the bail application of the petitioner has been rejected by the learned ASJ. The third bail application filed by the present petitioner has been dismissed by learned ASJ on 04.01.2016 observing that there is no change of circumstance and the nature of offence is serious.

9. Taking into consideration the nature of the weapons allegedly used in the incident i.e. desi kattas, iron rods and danda as well as the manner, time and place of occurrence i.e. in the midnight the petitioner alongwith co-accused persons allegedly visited the house of the complainant armed with fire arms, iron rods and dandas, knocked his door. When he allegedly opened the door, he was assaulted with iron rods, dandas and by firing from desi katta. This makes the nature of offence so serious so as to disentitle the petitioner his release on bail.

10. The bail application is dismissed.

11. The observation made above are only for the purpose of deciding the bail application and shall not be considered as an expression on merits.

PRATIBHA RANI, J.

JANUARY 15, 2016

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