

#56

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 22.01.2016

BAIL APPLN. 153/2016

RAJESH

..... Petitioner

Through: Mr. Amit Rao, Advocate

versus

STATE

..... Respondent

Through: Mr. M.S. Oberoi, APP with SI Prem
Kumar, PS- Sangam Vihar

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 (Cr.P.C.) seeking pre-arrest bail in FIR No.702/2015, under Section 307/34 IPC, registered at Police Station- Sangam Vihar.

2. Counsel appearing on behalf of the applicant would *firstly* urge that the subject FIR has been registered as a consequence of a dispute between brothers and is, consequently, a family matter, which can be amicably

resolved with the intervention of the applicant's mother and sister. Counsel appearing on behalf of the applicant would *secondly* urge that the applicant and his wife also suffered injuries as a consequence of the altercation between the brothers. It is *lastly* urged by counsel appearing on behalf of the applicant that the injuries suffered by the complainant are self-inflicted.

3. The case of the prosecution is that the applicant attacked his brother with a knife on vital parts of his body and, consequently, committed an offence under Section 307 of the IPC.

4. I have perused the Medico-Legal Report authored by Dr. Bhawna of Batra Hospital & Medical Research Centre dated 08.11.2015 which reveals that the injuries inflicted on the complainant by the applicant herein were dangerous and a knife was used to cause those injuries.

5. The submission made on behalf of the applicant to the effect that the present is a family matter and can be amicably resolved, does not come to the aid of the applicant, inasmuch as, some of the injuries inflicted on the complainant are on the vital parts of his body and are the consequence of a long pending property dispute between the brothers. In this behalf, it is also observed that the applicant and the complainant reside in the same house on different floors and, therefore, there is a distinct possibility of a recurrence of

violence. It is also noticed that the injuries have been described as dangerous and were evidently caused by a knife. *Inter alia*, the complainant had received a lacerated wound near his nose expanded up to his upper-lip.

6. *Prima facie*, an offence under Section 307 IPC is made out particularly, in view of the circumstance that the injuries have been opined as '*dangerous*'. The other submission made on behalf of the applicant to the effect that the injuries were self-inflicted, does not hold any water, inasmuch as, from the material on record, the occurrence of the incident cannot be doubted at this stage. The submission of the applicant that injuries were suffered by him and his wife at the time of altercation, are ample testimony to its occurrence and their presence at the spot when the offence was allegedly committed.

7. In the present case, the allegations against the applicant are grave and the material on record *prima facie* points to his guilt in the commission of an offence under Section 307 IPC. It is observed that the Medico-Legal Report states that the injuries to the complainant were caused with a knife and were dangerous in nature. Furthermore, the investigation is at an initial stage and the weapon of offence used for the commission of the crime is yet to be recovered. Custodial interrogation of the applicant is, therefore, necessary.

8. The application is devoid of merit and is accordingly dismissed.

SIDDHARTH MRIDUL, J

JANUARY 22, 2016

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