

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 01.03.2016

BAIL APPLN. 243/2016**DHARMENDER**

..... Applicant

Through: Mr M.P.Sinha, Advocate with
Mr Sahil Aeron, Mr Sidhant Aeron,
Ms Kiran Dhatarwal and
Ms Meenakshi Chandel, Advocate.

Versus

STATE (DELHI ADMINISTRATION)

..... Respondent

Through: Mr Ravi Nayak, APP.
SHO/Insp. Rajeev and SI Nafe Singh,
PS- Punjabi Bagh.

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.) on behalf of the applicant- Dharmender seeking regular bail in FIR No.1282/2015 under Section 307 IPC registered at Police Station- Punjabi Bagh, Delhi.

2. Mr Sinha, learned counsel appearing on behalf of the applicant, invites my attention to the circumstance that the injury suffered by the complainant in the subject FIR has been opined to be simple in nature.
3. Mr Sinha would then urge that the subject FIR is the consequence of a planned conspiracy against the applicant, inasmuch as, no specifics, insofar as the time of the commission of the offence, is stated in the FIR which also suffers from being bereft of all necessary material.
4. It is then urged by Mr Sinha that the applicant is innocent and was in fact gheraoed by the complainant and six other individuals who were attempting to cause bodily injury and harm to the petitioner.
5. Lastly it is urged on behalf of the applicant that as he was scared for his life and limb, he omitted to register a cross-FIR against the complainant in the subject FIR and against others who allegedly assaulted him physically.
6. On the contrary it has been urged by Mr Nayak, learned APP appearing on behalf of the police that the allegations levelled against the applicant are of serious nature, inasmuch as, he is alleged to have attacked the complainant with a broken whiskey quarter-bottle after pre-meditation as a consequence of which injuries were suffered by the latter on a vital part of his body, namely, the throat/front side of the neck. It is also urged on behalf

of the police that there is a distinct possibility of the applicant influencing or threatening prosecution witnesses including the complainant in the event he is enlarged on bail.

7. At this stage Mr Sinha, learned counsel appearing on behalf of the applicant would urge that the latter is a poor *rehri wala* and consequently the submissions made on behalf of the police are not tenable.

8. In the present case it is observed that the applicant does not deny his presence at the place where the offence was allegedly committed at the relevant time. It is also admitted position that the MLC qua the complainant opines that the complainant suffered a stab injury to the left side of his neck and observed to have lacerated wounds of 10 to 15cm in size, as per the MLC of the same day.

9. The submissions made on behalf of the applicant that in fact he was a victim of an assault orchestrated by the complainant in the subject FIR is not borne out by any material, inasmuch as, the applicant did not approach the police in this behalf with a complaint at any stage. The submission that he has been a victim of a planned conspiracy is also prima facie untenable as the applicant has not alleged any previous enmity between him and the complainant in the subject FIR. The submission that the FIR is deficient in

material particulars including the time when the complainant first intervened in the dispute between the applicant and certain other individuals, in my view is not material, inasmuch as, the time of the commission of the alleged offence has been clearly mentioned in the FIR as 9.15p.m. on 10.12.2015. The statement of Rahul, the complainant's brother, who escorted him to Maharaja Agarsen Hospital on his motorcycle, recorded under Section 161 Cr.P.C., prima facie corroborates this circumstance.

10. Although the investigation into the commission of the alleged offence is nearing completion and it has been stated on behalf of the IO in the subject FIR that a charge-sheet would be filed within a period of two weeks from today, in my view the applicant is not entitled to be enlarged on bail at this stage for the reason that the charges against him are serious in nature and there is a distinct possibility of his threatening the complainant and other material witnesses.

11. Consequently, the present application is dismissed.

SIDDHARTH MRIDUL, J

MARCH 01, 2016

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