

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

Judgment delivered on : 16th March 2016

+ BAIL APPLN. 355/2016 & CrI.M.A. No.2759/2016
SAJID ALI Petitioner

Through: Ms.Rakhi Dubey, Advocate.

versus

THE STATE (NCT OF DELHI) Respondent

Through: Mr.Rajat Katyal, learned Additional
Public Prosecutor for the State

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI
JUDGMENT

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P.S. TEJI, J.

CrI.M.A. No.2759/2016 (Exemption)

Exemption allowed subject to just exceptions.

Application stands disposed of.

BAIL APPLN. 355/2016

1. Petitioner seeks bail in an offence registered as FIR No. 457/2015 under Section 307/397 of Indian Penal Code (hereinafter referred to as the IPC) at Police Station Malviya Vihar, Delhi by filing the present bail application under Section 439 read with section 482 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.).

2. The present case is registered at the instance of one Anshul Agrawal (complainant herein), who informed that on 10.03.2015 at about 3.30 PM, he received a called from his friend Nidhi Agrawal informing him that a boy had mercilessly beaten her in her house and blood is oozing from her head. She called him immediately and thereafter, he rushed to Panchsheel Vihar, where he saw his friend Nidhi in an injured condition and blood was oozing from her head. It was further informed by the complainant that a boy was caught hold by the crowd whose name was Sajid Ali (petitioner herein) and the injured – Nidhi Agrawal told him that the said boy had beaten her mercilessly and he also snatched away money from her. Thereafter, he called the police and took the injured to Max Hospital.

3. Investigation started and statement of the injured – Nidhi under Section 164 of Cr.P.C. was recorded, in which she has corroborated the allegations against the petitioner. Investigating Officer recorded the statement of witnesses and also prepared the site plan; scene of crime was inspected by the Crime Team and exhibits were collected from the spot and sent to Forensic Science Laboratory, Chankya Puri, Delhi for expert's opinion. The petitioner – Sajid Ali was interrogated and arrested in the present case.

4. Ms. Rakhi Dubey, learned counsel appearing for the petitioner contended that the petitioner was not involved in the commission of the offence and the petitioner had reached the rented room of the injured only after the incident of assault and robbery had been committed by unknown and unidentified person. The petitioner, in

fact, had given a helping hand to the injured and brought her down to the basement so that the injured may be taken to hospital.

5. Learned counsel for the petitioner further contended that nothing has been recovered from the accused. It is further contended that Ankur Aggrwal, Sanjay Narula and Jagat Singh Nagar have hatched a conspiracy against the petitioner. A different version of the story is narrated on behalf of the petitioner, stating that the petitioner worked as a helper to his father who is a skilled technical hand in the work of fabrication and making grills and iron gate etc. A huge amount of about Rs.7.5 lacs to 8 lacs was due on Ankur Aggarwal, Sanjay Narula and Jagat Nagar and they were not paying the dues of petitioner's father and in this regard a complaint under Section 156 Cr.P.C. and a notice is also sent to the aforesaid persons. The petitioner has no role to play in the incident in question.

6. Learned counsel for the petitioner further contended that the petitioner is in judicial custody since the date of his arrest, i.e., 10.03.2015, and investigation in this case is complete and charge sheet has been filed therefore nothing remains to be interrogated from the petitioner. Moreover, the trial of the case is not likely to be completed in near future. In such a situation, the petitioner ought to be granted bail in the present case.

7. Mr. Rajat Katyal, Additional Public Prosecutor appearing for the State submitted that the statement of the complainant – Anshul Agarwal finds corroboration from the statement of the injured – Nidhi

Agrawal regarding the incident in question. Apart from the above, six other independent witnesses have deposed against the petitioner herein and the injuries suffered by the injured are opined by the doctor of Max Healthcare Super Specialty Hospital to be grievous in nature. The State has also filed a status report raising apprehension about the fact that in case the petitioner is released on bail, then there is every possibility that the petitioner may jump the bail and may influence the witnesses, therefore, the petitioner ought not be granted bail in the present case.

8. I have heard the submissions of learned counsel appearing on behalf of both the sides and gone through the material placed on record.

9. After careful scrutiny of the case, this Court observes that the petitioner has given different version of his case, which of course will be decided during trial by leading evidence. The facts which are required to be considered for grant of bail to the petitioner, are whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; nature and gravity of the accusation; severity of the punishment in the event of conviction; danger of the accused absconding or fleeing, if released on bail; character, behaviour, means, position and standing of the accused; reasonable apprehension of the witnesses being influenced; and danger, of course, of justice being thwarted by grant of bail, if any.

10. In the facts and circumstances of the present case, this Court

notes that the petitioner is charged with the serious offences of attempt to murder and robbery, punishable with life imprisonment and the doctor of Max Healthcare Super Specialty Hospital has opined the injuries being grievous in nature. This Court also observes that the statement of the complainant is duly corroborated with the statement of the injured – Nidhi and apart from their statement, there are six independent witnesses who had deposed against the petitioner. This Court has also gone through the statement of the injured – Nidhi Agrawal (PW-1), who had narrated the whole story and she had also identified the petitioner in court.

11. After going through the contents of the petition as well as FIRs duly corroborated by the injured witness – Nidhi Agrawal (PW-1), specifically assigning the role of the petitioner in committing the offences and the fact that injuries suffered by the victim are also opined to be grievous one, this Court is not inclined to grant bail to the petitioner at this stage. Accordingly, the present bail petition filed by the petitioner is dismissed.

12. Before parting with the order, this Court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

13. With aforesaid directions, the present petition stands disposed of.

P.S.TEJI, J

MARCH 16, 2016
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