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

+ **BAIL APPLN. 363/2016**

**SUNNY THOMAS**

..... Petitioner

Through: Ms.Rebecca M.John, Sr. Advocate  
with Mr.Saurabh Bhargavan,  
Ms.Chinju Saurabh, Mr.Harsh Bora,  
Ms.Rudrani Tyagi & Ms.Nicy  
Paulson, Advocates

versus

**STATE**

..... Respondent

Through: Ms.Alpana Pandey, APP for the State  
with SI Anand Kumar PS Mehrauli

**CORAM:**

**HON'BLE MS. JUSTICE PRATIBHA RANI**

**ORDER**

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**17.02.2016**

CRL.M.A.2867/2016

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

BAIL APPLN. 363/2016

1. The petitioner is seeking regular bail in case FIR No. 43/2016 registered under Sections 380/448/34 IPC at PS Mehrauli.
2. Notice. Ms.Alpana Pandey, APP for the State accepts notice of this application and furnishes the status report.
3. The said FIR No. 43/2016 has been registered at the instance of the complainant, Manoj Kumar Jha, Advocate wherein he has reported that he

owns a ground floor flat in Property No.886/1-C, Mehrauli and on the date of occurrence i.e. 18<sup>th</sup> April, 2015 at about 9.00 a.m. he was going to his flat under order of the Court. When he was about to open the lock, Saji Joseph and Lais John, who resides on the upper floor flat started quarrelling with him. When he informed them about the Court order they started beating him. He came out to save his life. The neighbours, who collected there on hearing his noise, saved him. He called PCR but by the time police could reach, they broke open the lock and took away some of his files and goods and put their lock. He has also stated he had seen them taking some of the articles through staircase. He was feeling nervous as they have threatened to kill him.

4. The petitioner before this Court is Sunny Thomas, who has placed on record the CCTV footage for 18<sup>th</sup> April, 2015 from 09:22 AM onwards till 10:18 AM at the alleged incident spot. Photographs of the CCTV though show presence of the complainant as well Saji Joseph & Lais John along with police officials and some other persons but do not show the presence of the present petitioner.

5. The learned ASJ while dismissing the bail application of the petitioner has recorded the submissions made on behalf of the learned additional PP for the State that petitioner/accused is very aggressive and he is the person who actually put the lock on the house of the complainant and stolen the articles. The bail has also been declined on the ground that stolen articles are yet to be recovered. It is surprising that the complainant who claims to be present at the spot names only two persons i.e. Saji Josesh & Lais John, who quarrelled with him, broke open the lock and removed some of his files and goods. However, Saji Josesh & Lais John have been released on anticipatory bail. The complainant, who is an advocate, has not even given the details of

the goods taken out from his flat after breaking open the lock or what goods he had seen being taken by them from upstairs.

6. The petitioner who is stated to be a law student is in custody for about two weeks. No recovery has been effected from him. He is not even stated to be the person who visited the spot despite that he is alleged to be person who put the lock on the premises and stolen the goods.

7. Since the matter in issue appears to be a result of dispute over the alleged encroachment by the complainant on some area in the ground floor whereas petitioner and his co-accused are residing at upper floor of Property No.886/1-C, Mehrauli, Delhi and they have objected to such encroachment by the complainant, that appears to be the reason for civil litigation as well criminal litigation between the parties.

8. Lest any prejudice is caused to any of the parties, it is not desirable to examine the facts minutely but in view of the CCTV footage of the area on the ground floor wherein even the complainant is shown to be present, it is a fit case to enlarge the petitioner on bail.

9. It is directed that the Petitioner be released on bail on his furnishing personal bond in the sum of ₹ 50,000/- with one surety in the like amount to the satisfaction of the concerned Court/Link Court.

10. A copy of the order be given *dasti* to learned counsel for the petitioner under the signature of the Court Master.

**PRATIBHA RANI, J.**

**FEBRUARY 17, 2016**

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