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IN THE HIGH COURT OF DELHI AT NEW DELHI
BAIL APPLN. 457/2016

MOHD. CHOTE

..... Petitioner

Through

Mr. J.P. Singh, Advocate

versus

THE STATE N.C.T OF DELHI

..... Respondent

Through

Mr. Hirein Sharma, APP for the State.
SI Sunil Kumar, Police Station Narela.

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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31.03.2016

1. Vide this application under Section 438 Cr.PC, the petitioner seeks anticipatory bail in case FIR No. 1217/2015 under Section 308/323/354(B)/380/452/427/34 IPC registered at Police Station Narela.

2. FIR in the instant case was registered on the statement of the complainant Rajuddin wherein he stated that on 20th September, 2015, he was present in his office at the first floor of H-20, JJ Colony, Bawana, Delhi while his sister Nisha and his mother Smt. Chahana were present at the ground floor. Some unknown person came and asked him that he is being called by Narayan in the street. When he did not go, then Narayan himself came to his sister's clinic and used abusive language. After this, he came at the ground floor and took Narayan out from his sister's clinic. After 5-10 minutes, Ram Narayan came again along with the present applicant-Md. Chhote, who is his brother-in-law, Hardwari and two sons Vijay Kumar and Raju. They broke the glass of Mumtaz's clinic and his Alto car. His brother Nisar came who was also attacked by the accused persons. Clothes of his sister were also torn. While going, Rs.80,000/- belonging to the complainant were taken away by the accused persons.

3. Counsel for the petitioner submits that there was a monetary transaction between the complainant and brother-in-law of the applicant. Complainant is running a committee in which brother-in-law of the petitioner is one of the member. His brother-in-law had to collect the last committee of Rs.3 lacs from the complainant. The complainant had returned Rs.85,000/- to his brother-in-law in the year 2013 but did not pay the balance amount of Rs.2,15,000/- despite repeated demands. As such, a complaint was made by his brother-in-law on 4th June, 2014 to ACP, Alipur, Delhi. Another member of the committee, namely, Sumit had also filed a similar complaint before the ACP against the complainant. The present FIR is a counter attack so that the brother-in-law may not be able to demand balance amount of Rs.2,15,000/- from the complainant. Ram Narain had already been granted regular bail. The petitioner has no relation whatsoever with the committee run by his brother-in-law. Petitioner is ready to join investigation. No recovery is required to be effected from the possession of the petitioner or at his instance. He is ready to join investigation. As such, he be released on bail.

4. Learned APP opposes the application on the ground that the custodial interrogation of the petitioner is required for recovery of Rs.80,000/- and weapon of offence.

5. The petitioner has placed on record a copy of the order dated 28th January, 2016 passed by the learned Additional Sessions Judge whereby regular bail was granted to co-accused Ram Narayan. A perusal of the same goes to show that in his case also, the application for anticipatory bail was opposed on the ground that the recovery of money and weapon of offence is to be effected, however, after the accused was arrested, no police remand was sought by the police for effecting any recovery and for which no explanation was furnished by the Investigating Officer of the case. The injured persons were reported to be discharged from the hospital on the same day and the injuries were opined to be simple.

6. Keeping in view the totality of the facts and circumstances of the case, it is ordered that in the event of his arrest:-

- (i) Petitioner be admitted to bail on his executing personal bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety in the like amount to the satisfaction of the concerned I.O./SHO.
- (ii) He shall join the investigation as and when called for by the I.O.
- (iii) He shall furnish his address as well as his contact number to the Investigating Officer.
- (iv) He shall not threaten or coerce complainant or any prosecution witness.

The application is accordingly disposed of.

Copy of this order be given *dasti* to counsel for the petitioner.

SUNITA GUPTA, J

MARCH 31, 2016

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