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

+ **BAIL APPLN. 564/2016**

ASHOK GULIA

..... Petitioner

Through: **Mr.B.S.Joon & Mr.Neeraj Balhara,**
Advocates

versus

STATE

..... Respondent

Through: **Ms.Kusum Dhalla, APP for the State**
with ASI Gajraj Singh PS Dwarka
Sector 23

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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14.03.2016

CRL.M.A.4457/2016

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

BAIL APPLN. 564/2016

1. By way of this application filed under Section 438 Cr.P.C., the petitioner is seeking anticipatory bail in case FIR No. 54/2016 under Sections 341/325/356/34 IPC at PS Sector -23 Dwarka.
2. Earlier prayer of the petitioner to be released on anticipatory bail has been declined by learned ASJ on 24th February, 2016 as well on 8th March, 2016.
3. On behalf of the petitioner, Mr. B.S.Joon, Advocate has submitted that FIR in this case has been registered under Sections 341/325/356/34 IPC out of which only Section 379 IPC is non-bailable and other sections are bailable. He further submits that allegation in respect of offence under Section 379 IPC are not against the present petitioner but against his

associate. The petitioner is ready and willing to join the investigation hence he may be enlarged on anticipatory bail.

4. On behalf of the State, prayer for grant of anticipatory bail has been opposed.

5. Along with the status report, copy of the MLC of the injured Alok Kumar has also been placed on record. Perusal of the MLC shows that the complainant Alok Kumar had suffered multiple injuries.

6. Perusal of the FIR shows that the complainant Alok Kumar along with Ram Avtar Tyagi, Vinod Gahlout had visited the office of Suran Bhan Sehrawat at Flat No.60, Akshardham Apartment, First Floor, Pocket-3, New Delhi. At that time Suraj Bhan was talking on phone and while they were sitting there, within 15-20 minutes, Ashok Gulia, the petitioner along with one Tasveer @ Sonu reached his office. There was exchange of hot words. The petitioner and his associate continued abusing Suraj Bhan. The complainant Alok Kumar intervened by advising them to settle the dispute by sitting and talking to each other peacefully. In the meantime, Alok Kumar, the complainant received a call and to attend the call he came out. The petitioner along with his associate followed him and started assaulting him. 4-5 boys were already standing there and one swift car of white colour was also parked there. They took out hockey and baseball bats and started giving beating to the complainant. On hearing his cries, Suraj Bhan, Ram Avtar Tyagi, Vinod Gahlaut and Satish Dagar came down. At that time, his mobile phone was snatched by Tasveer @ Sonu and all of them fled from the spot in that swift car. The complainant was removed to the Artemis Hospital. As on the date of incident due to severe pain, he was unable to make statement, his statement was recorded by the police on the next day.

7. Anticipatory bail of the petitioner has been rejected twice by the learned ASJ. The petitioner had no enmity with the complainant. The

complainant had been allegedly beaten as he was present during the alleged hot words exchanged between Suraj Bhan and the petitioner and his associate and he just intervened by advising them to sit and settle their issues by talking to each other peacefully. The multiple injuries referred on the MLC as well the submission by learned APP for the State that X-ray report revealed fracture, makes the nature of the offence to be investigated by considering all angles especially the fact that the petitioner along with his associate had allegedly come in a Swift Car armed with hockey sticks and baseball bat which shows that they came there with full preparation. However, instead of the baseball bats and hockey sticks being used against the person with whom the petitioner might have come to settle his score, were used on the complainant who had nothing to do with the dispute if any between Suraj Bhan and the petitioner. Merely because the petitioner claims that most of the offence for which he is wanted are bailable is no ground to grant anticipatory bail as the petitioner has also been charged with the aid of Section 34 IPC for the offence which is non-bailable.

8. Legal position is well settled that anticipatory bail can be granted only in exceptional circumstances where the Court is prima facie of the view that applicant has been falsely entangled in the crime and would not misuse his liberty.

9. In view of the nature of the accusation against the petitioner, I am not inclined to grant him anticipatory bail. The Application is dismissed.

10. Any observations made hereinabove for the purpose of dealing with the contentions raised during hearing of the bail application shall not be deemed to be an expression on merits of the case.

11. Order *dasti*.

PRATIBHA RANI, J.

MARCH 14, 2016/ 'pg'