

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of hearing and Order : May 02, 2016

+ BAIL APPLN. 821/2016
SONU

..... Petitioner

Through: Mr. Mohit Kumar, Mr. Pradeep
Kumar Sharma, Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Mukesh Kumar, Additional
Public Prosecutor for the State with
Sub-Inspector Sri Bhagwan, Police
Station Neb Sarai, Delhi

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

ORDER

P.S.TEJI, J. (Oral)

1. The present application has been filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 for the grant of bail in FIR No.275/2016, Police Station Neb Sarai, under Sections 323/308/34 of the Indian Penal Code.

2. In brief, the facts are that on 20.03.2016, a quarrel took place between the mother of the petitioner and the wife of the complainant on the issue of water, which was later on sorted out. But after some time, the complainant and his associates entered the house of the applicant and attacked them with the dundas and pipes. In order to

save themselves, the petitioner and other persons in their self defence responded to the attack of the complainant and his associates and a scuffle took place. Both parties sustained injuries. Police was called by dialing 100, which took the injured to hospital. Statements of both the parties were recorded and two cross FIRs were registered. One by the complainant in the present FIR and another on the statement of the petitioner i.e., FIR No.276/2016, which was registered under Section 323/452/34 of IPC in the same Police Station.

3. Mr. Mohit Kumar, learned counsel for the petitioner contended that the petitioner is in judicial custody since 22.03.2016 and simultaneously the complainant of the present FIR alongwith his son were also arrested by police in cross FIR No. 276/2016 and they were also sent to judicial custody on the same day. However, the complainant and his son were granted bail by the Trial Court on 01.04.2016. It is contended on behalf of the petitioner that the police has wrongly invoked Section 308 of IPC however in the facts and circumstances of the present case, at the most, a case under Section 335 of IPC is made out. It is further contended that the incident in question was due to sudden quarrel between the two neighbors and there was no previous animosity between the parties.

4. Learned counsel for the petitioner has further contended that the investigation in the present case has been completed and nothing has been recovered from the petitioner and there is nothing to be recovered from him. It is further contended on behalf of the petitioner

that there are no specific allegations leveled against the petitioner in the FIR and the petitioner has clean antecedents and has not committed any crime. Lastly, it is contended that the petitioner belongs to a good family and has never been involved in any criminal activities. He is a permanent resident of Delhi and there is no chance of him absconding in the case, therefore, in the facts and circumstances of the present case, the petitioner ought to be granted bail.

5. Mr. Mukesh Kumar, Additional Public Prosecutor for the State opposed the aforesaid contentions raised on behalf of the petitioner. It is submitted that the petitioner is charged with the offence punishable under Section 308 of IPC and the orders passed by learned Additional Sessions Judge, thereby rejecting bail to the petitioner do not suffer from any illegality or infirmity.

6. I have heard learned counsel for the petitioner as well as the submissions made by learned Additional Public Prosecutor for the State and gone through the contents of the petition as well as material placed on record.

7. After careful scrutiny of the case and the facts and circumstances of the present case, this Court observes that there are cross FIRs registered in the same Police Station in which the petitioner is the complainant of the other FIR. This Court further observes that the accused of other FIR have already been released on bail and the fact that both the parties are neighbor, both the parties have sustained

injuries and there is cross FIR registered at the instance of the petitioner. The complainant of the present FIR has been released on bail.

8. In view of the aforesaid facts and circumstances of the present case, this Court is inclined to grant bail to the petitioner – Sonu. Accordingly, it is ordered that the petitioner – Sonu be released on bail subject to his furnishing personal bond in the sum of Rs.25,000/- with two sureties of the like amount to the satisfaction of the concerned Court.

9. The petitioner is directed not to tamper with the evidence, not to influence the prosecution witnesses and shall not leave the country without prior permission of the Court concerned.

10. Before parting with the above order, it is made clear that anything observed in the present petition shall not have any bearing on the merits of the case during trial.

11. In view of the aforesaid directions, the present bail application is disposed of.

Dasti.

(P.S.TEJI)
JUDGE

MAY 02, 2016
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