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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ BAIL APPLN. 818/2016
NARESHWAR @ ISHWAR SINGH

..... Petitioner

Through Mr Surendra Bharti, Adv.
versus

STATE & ANR.

..... Respondent

Through Ms Neelam Sharma, Additional Public
Prosecutor for the State alongwith Sub Inspector
Habib Ahmed Police Station Gokalpuri, Delhi
Mr Rohit Jain, Adv. for R2

CORAM:
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% 04.05.2016

This is application under Section 438 of Cr.PC moved by the petitioner for grant of anticipatory bail in case FIR No.231/2016 under Sections 307/34 IPC registered at Police Station Gokalpuri, Delhi.

It is submitted by counsel for the petitioner that the instant FIR has not been registered at the instance of complainant but the same has been manipulated by the police officials though the complainant was fit for statement in the hospital but the police officials mentioned in the FIR that due to pain, he did not make statement. Moreover, the petitioner was at home at the time of alleged incident and CCTV footage has already been handed over to the Investigating Officer of the case but no effort has been made by the Investigating Officer to bring out the truth. On 11.04.2016, the complainant has given a complaint to DCP stating therein that the petitioner was not involved in the incident as such the petitioner be granted anticipatory bail.

It is also submitted by learned counsel for the complainant that the petitioner was not present at the spot at the time of incident and has no role to play.

However, the application is opposed by learned Additional Public Prosecutor for the State on the ground that on receipt of information when the police officials reached the spot, the local inquiries revealed that Pappe, a local cable operator, alongwith his associates Kanchi and others have stabbed Chattar Pal Singh. At hospital, Chattar Pal Singh was found admitted with multiple incised injuries on his chest, however, he could not give his statement due to pain. Thereafter, on the next day, Chattar Pal Singh gave a statement wherein he specified the role played by the petitioner by stating that the petitioner pulled out a knife from his cloth and stabbed

him several times on chest. Again on 29.03.2016, he gave a statement stating therein that he was regularly being threatened and pressurized by the associates of the petitioner and Pappe to compromise the matter. This is precisely the reason that now the complainant is trying to help the petitioner by changing his statement that the petitioner was not involved in the incident. It is further submitted that the petitioner is a habitual offender and 'bad character' of Police Station Bhajanpura. The weapon of offence is yet to be recovered as such it is stated that the petitioner is not entitled for grant of anticipatory bail at this stage.

As per the statement of complainant – Chattar Pal Singh recorded on 25.03.2016 i.e. on the next date of incident a minor verbal scuffle had taken place on 23.03.2016 with Ajay who is employed by Pappe, the cable operator. On 24.03.2016 when he was sitting outside his shop at around 11.30 am, accused Devraj @ Pappe alongwith other accused namely Ajay, Nazir, Ishwar @ Kanchi came and started beating him. Suddenly, Kanchi pulled out a knife from his clothes and stabbed him on his chest. Thereafter, all the accused managed to escape from the spot. These averments were reiterated by him on 29.03.2016/ He further stated that he was being regularly threatened and pressurized by the associates of the petitioner and Pappe to compromise the matter. Thereafter, an application dated 11.04.2016 was given by him to DCP, North East District wherein he stated that the petitioner was not involved in the incident. As such, possibility of making this statement under pressure of the petitioner or his associates at this stage cannot be brushed aside.

As regards, the CCTV footage handed over by the petitioner for alleging that he was not present at the spot, that at best may be defence of the petitioner. Moreover, as per the status report, the CCTV footage has been sent to FSL for examination but due to certain objections it was not received by the authorities and the same will be sent shortly after rectifying the objections.

Keeping in view the totality of facts and circumstances coupled with the role assigned to the petitioner and the fact that weapon of offence is yet to be recovered, I do not deem it appropriate to grant anticipatory bail to the petitioner.

The application is accordingly dismissed.

SUNITA GUPTA, J

MAY 04, 2016/*rd*