

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

Date of hearing and Order : May 09, 2016

+ BAIL APPLN. 845/2016
GOPAL & ANR

..... Petitioner

Through: Mr. Anil Hooda, Mr. Nandlal Mishra,
Ms. Ankita Gupta, Advocates

versus

STATE (NCT) DELHI

..... Respondent

Through: Ms. Meenakshi Chauhan, Additional
Public Prosecutor for the State with
Sub-Inspector Satish Lohia, Police
Station Hauz Khas, Delhi

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

P.S.TEJI, J. (Oral)

1. The present application has been filed by the petitioners under Section 438 of the Code of Criminal Procedure, 1973 for the grant of anticipatory bail in FIR No.314/2016, Police Station Hauz Khas, Delhi, under Sections 323, 379, 452, 506, 308, 34 of the Indian Penal Code.

2. The petitioners seek anticipatory bail in a case, wherein they have been alleged to have thrown out the goods from the shop of the complainant and extended threat to the complainant and his family. The petitioners are also alleged to have dandas in hands, when the accused Mahesh Saini entered into the shop of the complainant – Ashok Gupta and dragged the complainant outside and started beating him with legs and fist. Statement of the complainant was recorded and

accordingly the present FIR was registered against the accused persons.

3. Mr. Anil Hooda, learned counsel for the petitioners contended that the petitioners have not been assigned any specific role in the case. It is further contended that there are four accused persons and only one of them is released on bail. Learned counsel for the petitioners further contended that the victims have received simple injuries as per the opinion of AIIMS Trauma Centre.

4. Learned counsel for the petitioner has contended that there is a pending tenancy case between the father of the complainant and the paternal uncle of the petitioners namely Nanak Chand and as the father of the complainant lost the eviction case before the Rent Controller, Saket Court, Delhi, therefore, the petitioners have been falsely implicated in the present case to put pressure on the paternal uncle of the petitioners to settle the matter of tenanted shop.

5. Lastly, it is contended that the learned Additional Sessions Judge has wrongly mentioned in the order that the petitioners are in custody since 25.03.2016, however, the petitioner had sought anticipatory bail and was never in custody in the present case. It is submitted that it is accused – Mahesh who is in custody. It is contended that the petitioners are the permanent residents of their address and there is no likelihood of their absconding. It is further contended that the petitioners undertake to appear before the investigating officer, as and when required and shall abide by all the

terms of the conditions. Accordingly, it is prayed that the petitioners be granted interim protection in the present case.

6. Ms. Meenakshi Chauhan, Additional Public Prosecutor for the State opposed the aforesaid contentions raised on behalf of the petitioners. However, on instructions from Sub-Inspector Satish Lohia, learned Additional Public Prosecutor for the State submitted that the petitioners are absconding and they are required to join the investigation for the purpose of recovering of the case property i.e. dandas from the accused/petitioners.

7. I have heard learned counsel for the petitioners 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.

8. The present bail application first came up for hearing before this Court on 26.04.2016, when this Court had directed the State to file its status report. Status report filed by the State has been perused, in which the custodial interrogation of the petitioners is sought to recover the dandas from the petitioners.

9. After careful scrutiny of the case and the facts and circumstances of the present case, this Court observes that the case is pending adjudication and the petitioners have been assigned the role of having dandas in their hands only. This Court has also perused the status report, in which it is stated that the MLCs of the injured Ashok

Gupta and Praveen Gupta were submitted to AIIMS Trauma Centre for opinion with regard to the nature of injuries and the result thereof is received as 'simple' for both of the victims.

10. In view of the aforesaid facts and circumstances of the present case, this Court is inclined to grant anticipatory bail to the petitioners – Gopal and Chanu @ Kailash. Accordingly, the petitioners are directed to join the investigation as and when required and in the event of arrest, the petitioners – Gopal and Chanu @ Kailash be released on bail subject to their furnishing personal bond in the sum of Rs.25,000/- with two sureties of the like amount to the satisfaction of the Arresting Officer.

11. The petitioners are further 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.

12. 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.

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

Dasti.

(P.S.TEJI)
JUDGE

MAY 09, 2016
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