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

+ **BAIL APPLN. 932/2016**

RAJESH @ PYAJA

..... Petitioner

Through: Mr. Darshan Singh, Advocate

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Ravi Nayak, APP with SI Ramesh
Kumar, PS- Sultan Puri

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

09.05.2016

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The present is an application under Section 438 of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeking pre-arrest bail in FIR No.1071/2015, under Sections 147/148/149/323/308/427/452 IPS, registered at Police Station- Sultan Puri.

Notice.

Mr. Nayak, learned APP accepts notice on behalf of the official respondent.

Counsel for the applicant makes the following submissions:-

- a) That the alleged incident was a consequence of a squabble between two neighbours;
- b) That he is not a neighbour of the complainant and does not reside in the locality, and has been falsely implicated by the complainant;
- c) That the IO has never made any attempt to question him;
- d) That the applicant is willing to join investigation.

On the contrary, Mr. Nayak, learned APP appearing on behalf of the police invites my attention to the subject FIR to urge that the applicant along with a few of his friends were making a nuisance in the area in question in an inebriated state and assaulted the complainant with iron rods, lathis and dandas, when the latter asked them to behave themselves in a civilized manner. Not only that, after beating up the complainant, they barged into his house and mercilessly assaulted the other members of his family, including his mother. In other words, the charge against the applicant is serious and does not merit release on bail at this stage.

It is an admitted position that the complainant suffered grievous injury and that he named the applicant as one of his assailants in the subject FIR, which came to be recorded almost contemporaneously. Further no previous enmity between the parties has been pleaded or urged in the present application. Furthermore, the applicant has been evading arrest from the beginning and according to his sister is in an unnamed location in Rajasthan for the past few months. Moreover, a complaint has been received by the SHO of the concerned Police Station from the residents of the colony where the alleged offence was committed that even after the registration of the subject FIR, the applicant, who is stated to be a leader of a group of 25-30 unruly individuals, have been intimidating the entire locality, in order to prevent them from deposing against him.

In the present case, it is observed that the weapon of offence is yet to be recovered. The submission that the co-accused of the applicant have since been released on bail, is not tenable since in my view, parity cannot be claimed by the present applicant, inasmuch as, the role attributed to him in the entire incident is far more serious, as is established from the number of injuries sustained by the injured persons, including the complainant.

In view of the foregoing, after having perused the case diary, the MLC as well as the complaint received from the residents of the concerned area, in my

opinion it would not be appropriate to grant the applicant pre-arrest bail in the subject FIR.

The application is dismissed.

SIDDHARTH MRIDUL, J

MAY 09, 2016
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