

\$~2 & 3

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

+ BAIL APPLN. 945/2016 and CrI.M.A.7577/2016

RAJESH RATTA

..... Petitioner

Through: Mr.Rajendra Kumar, Advocate

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Amit Ahlawat, APP for the State
with SI Kulbir Singh, PS Kirti Nagar.

AND

+ BAIL APPLN. 946/2016

GEETA RATTA

..... Petitioner

Through: Mr.Rajendra Kumar, Advocate

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Amit Ahlawat, APP for the State
with SI Kulbir Singh, PS Kirti Nagar.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

17.05.2016

1. The petitioners are seeking anticipatory bail in case FIR No. 206/2016, under Section 308/34 IPC, registered at PS Kirti Nagar.
2. On behalf of the petitioners, Mr.Rajendra Kumar, Advocate has submitted that the petitioners are having dispute over property bearing No. A-54, Kirti Nagar, New Delhi with the complainant Tarun Ratta who is son of step brother of the petitioner Rajesh Ratta.
3. It is further submitted that it was the complainant who committed tress-pass in the house of the petitioners with the intention to dispossess him from the said property. The complainant came along with one sikh man and after opening the inner door of the house, they both started beating the petitioner and his wife with *danda*. They received injuries on their hands

and legs. They called the PCR and they were also medically examined vide MLC No. 43782, dated 19.04.2016 at Acharya Shri Bhikshu Government Hospital. Case FIR No. 0207/16 dated 21.04.2016 was also registered under Section 323/341/451/506 IPC. It has been submitted that this case FIR No. 206/2016 dated 20.04.2016 has been registered against them with the sole motive to dispossess the petitioners and grab his property.

4. Learned counsel for the petitioners has further submitted that FIR No. 206/2016 dated 20.04.2016 under Section 308/34 IPC was registered against the petitioner and his wife but no cross-FIR was registered till 21.04.2016, untill the matter was reported to the DCP vide complaint annexed as Annexure-E. In the said complaint dated 21.04.2016 to the DCP how the injury was sustained by Tarun Ratta has also been explained, hence petitioners may be released on anticipatory bail.

5. Learned APP for the State has placed on record MLC of injured Tarun Ratta as well the photographs showing injury on his head and the injured bleeding profusely.

6. The photographs of the complainant/injured and the MLC shows that apart from abrasions there is only one injury on the head. As per contents of FIR No. 206/16 which has been recorded on the basis of the statement made by Tarun Ratta, House No. A-54, Kirti Nagar is their ancestral property in respect of which status quo has been ordered by High Court of Delhi. On 19.04.2016 on coming to know about the un-authorised construction being raised on the said property, he along with his friend H.S. Kohli reached there at 4:00 PM and saw petitioner Rajesh Ratta carrying construction there. When he started taking photographs, Rajesh Ratta and his wife, Geeta Ratta started abusing them. The complainant Tarun Ratta informed PCR about

un-authorised construction being carried out which annoyed the petitioner Rajesh Ratta and his wife and Rajesh Ratta hit on his head with iron rod whereas his wife threw a brick. As a result of which he received injuries. In the meantime, both sons of Rajesh Ratta also came there with base-ball bat and scissors and tried to hit him on his head but he prevented the attack with his hand and when his friend H.S. Kohli tried to save him, he also received injuries on his hand. Then Geeta Ratta also instigated her son to kill the complainant Tarun Ratta and then he again informed PCR. They were taken to Acharya Shri Bhikshu Government Hospital by PCR.

7. MLC of Tarun Ratta, the complainant/injured records that he was examined on 19.04.2016 at 4:30 PM. The petitioner has also been examined in the same hospital on the same date at 6:40:13 pm. in casualty. The photographs placed on record by the injured shows that injury is on vital part i.e. parietal region, right side which is allegedly caused by iron rod by the petitioner Rajesh Ratta.

8. In the case reported as ***Adri Dharan Das Vs. State of West Bengal*** 2005 III AD (SC) 73, the Apex Court has laid down the guidelines for release on anticipatory bail and in para 19 held as under :-

“19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance to maintain law and order in the locality. For

these or other reasons, arrest may become inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well-defined and the jurisdictional scope of interference by the Court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interfere in the investigation, which cannot, at any rate, be done under Section 438 of the Code.”

9. In view of the nature of the injury suffered by the complainant/injured allegedly at the hands of the petitioner Rajesh Ratta and that State has also mentioned in the status report that custodial interrogation of the petitioner is required to recover the weapon of offence, I do not find it to be a fit case to release the petitioner Rajesh Ratta (in Bail Appl. No. 945/2016) on anticipatory bail.
10. Bail Appl. No. 945/2016 stands dismissed.
11. So far as the petitioner, Geeta Ratta (in Bail Appl. 946/2016) is concerned, taking into consideration the nature of accusations against her, it is directed that till the next date of hearing no coercive steps shall be taken against the petitioner Geeta Ratta. The Petitioner is directed to join the investigation as and when required by the IO/SHO concerned and also to provide his contact number to the IO concerned to facilitate communication for the purpose of joining the investigation.
12. List the Bail Appl. No. 946/2016 on 25th May, 2016.
13. Copy of the order be given *dasti*.

PRATIBHA RANI, J.

MAY 17, 2016/ 'hkaur'

BAIL APPLN. 945/2016 & 946/2016

page 4 of 4