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

+ **BAIL APPLN. 992/2016**

SACHIN GUPTA

..... Petitioner

Through: Mr. Rajesh Mahale, Advocate

versus

THE STATE OF DELHI

..... Respondent

Through: Mr. Rajat Katyal, APP a/w SI Rahul
Kumar, SI Shakarpur

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
15.07.2016

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The petitioner has moved the present application under Section 438 Cr PC to seek anticipatory bail in case of arrest in respect of FIR No.2209/2015 dated 24.09.2015 under Section 397/397/34 IPC registered at PS Shakarpur.

As per the allegations contained in the FIR, on 23.09.2015, the complainant Manish Sharma, who is a resident of Ambala, Haryana had come to the house of his sister living in Ganesh Nagar. He stated that after taking dinner at about 11:00 p.m., while he was strolling, he was surrounded by three boys. One of them put a knife on his back and snatched the gold chain of 2.5 tolas. When he objected, one of the boys gave a blow on his

face as a result of which he got injury near his eye. When he cried for help, one of them shouted to finish him. He saw his brother-in-law coming in a motorcycle and cried for help. His brother in law tried to make a call on No.100 from his mobile phone. However, the persons involved in the crime snatched the mobile and also gave him beating and fled from the spot. The PCR personnel visited the spot and found the complainant and brother in law in an injured condition. The FIR was registered. During the course of investigation, one of the accused Ravi Kumar was arrested on the following day. During his interrogation, Ravi Kumar disclosed that he along with his friend Sachin Gupta and relative Rohit Kumar had committed the offence.

The applicant was initially granted anticipatory bail by the court of sessions. However, that application was eventually dismissed as the applicant did not cooperate in the investigation. Thereafter, efforts were made to arrest the applicant. He filed the first Bail Appln No.967/2016 to seek anticipatory bail. The said application was, however, dismissed on 11.05.2016 since non bailable warrants have been issued against him. Consequently, the applicant has filed the present application.

The submission of learned counsel for the petitioner is that this court on 13.05.2016 directed the petitioner to join the investigation and he has complied with the said order. Learned counsel submits that even when earlier he was asked to join the investigation, the petitioner has joined the investigation. Learned counsel submits that the petitioner is not at all involved in the crime. The incident happened in front of his house and he was not involved in the said offence.

Coming back to the status report, it is stated that the petitioner has not cooperated as he is not divulged anything about the offence or about the

looted gold chain or mobile phone. Ravi Kumar in his disclosure statement stated that the knife was brought by the petitioner and the gold chain was with him. The SHO also pointed out that the petitioner has also sought to pressurise the complainant. On 24.09.2015, the relatives of the applicant allegedly trespassed into the house of the brother in law of the complainant. On that day, the complainant party was threatened with dire consequences and false implication if they did not compromise the matter. On arrival of police, at the instance of the brother in law of the complainant, the said persons fled. The CCTV footage of the incident along with a certificate under Section 65B of the Indian Evidence Act has been provided to the police along with the written complaint. It is stated that the applicant has not cooperated in providing information about the persons who had trespassed into the house of brother in law of the complainant.

It is further stated that as per the directions of the learned ASJ, the complainant and the victim were also required to participate in the investigation. During the said investigation, the complainant and his brother in law identified the accused Rohit and the applicant Sachin Gupta. On 19.02.2016, the complainant Manish Sharma gave a written complaint at PS Shakarpur alleging that after identifying the accused persons in the police station, when they were coming out, the accused Rohit and Sachin Gupta threatened him. It is further submitted that the robbed mobile phone of the brother in law of the complainant was put on surveillance through its IMEI, and the same was found to be in use with a different SIM card. It is stated that the persons who have used the mobile phone are connected with the accused persons. It is submitted that the custodial interrogation of the applicant is essential to recover the robbed gold chain and the mobile phone.

During the course of submissions, counsel for the petitioner has sought to deny even the fact that the accused Ravi Kumar had made a disclosure of the names of the applicant Sachin Gupta and Rohit when his statement was recorded on 24.09.2015. However, the case diary produced before the Court shows that the statement attributed to Ravi Kumar records the name of Sachin and Rohit, and it bears the date 24.09.2015.

Having considered the submissions of the petitioner and also taking into account the status report, I am not inclined to grant any protection to the petitioner at this stage.

In my view, the custodial interrogation of the petitioner would be necessary to discover the looted articles. The petitioner shall surrender before the Trial Court latest by 18.07.2016.

VIPIN SANGHI, J

JULY 15, 2016

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