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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on : July 12, 2016

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BAIL APPLN. 1138/2016

ASHOK KUMAR DASS

..... Petitioner

Through: Mr. Kulbhushan Mehta, Advocate
versus

THE STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Manjeet Arya, Additional Public
Prosecutor for the State with Sub-
Inspector Dinesh Kumar, Police
Station Nihal Vihar, Delhi

CORAM:

HON'BLE MR. JUSTICE P.S. TEJI

ORDER

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12.07.2016

P.S. TEJI, J. (Oral)

1. By this petition filed under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.), the petitioner is seeking bail in FIR No. 1017/2015 under Section 452/308/427/506/34 of Indian Penal Code, at Police Station Nihal Vihar, Delhi.

2. The prosecution case is that on receipt of DD No.29A dated 13.10.2015, when the Investigating Officer reached at the residence of complainant, he found the broken glass pieces of office and swift car duly scattered but the complainant was not present. Upon receipt of another information that one Pradeep Kumar son of Mahabir has been admitted in Satya Bhama Hospital on MLC No.1126/15, ASI reached

the hospital and collected the MLC, on which the doctor had opined h/o physical assault by a group of people with lathi, sword, sharp object, multiple blunt injury on chest, abdomen and head. Statement of the complainant was recorded. The complainant has alleged that he and Bhagwan Singh @ Fauji had lent money to one Lala and the property documents had been kept by Bhagwan Singh @ Fauji as security. Whenever he asked for the documents, Bhagwan Singh used to abuse him. As per the complainant, two days before the incident, he had visited Bhagwan Singh @ Fauji's house where his wife Devenderi Devi was present and abused him and threatened to implicate him in a false case.

3. It is further stated that on 13.10.2015 at about 7.15 PM when the complainant was counting cash at his office counter, Bhagwan Singh @ Fauji alongwith K.P. Singh, Pradeep Tyagi and the applicant – Ashok Kumar Dass entered in his office carrying iron rods and sword in their hands and broke office window glasses and started beating him with rod, kicks and fists. Bhagwan Singh snatched Rs.35,000/-. It is also alleged that all the accused persons threatened to kill him and while leaving they broke the glasses of the swift car. Accordingly, the present FIR was registered on the statement of the complainant and investigation was started.

4. During investigation, the applicant/accused was arrested on 14.10.2015 and the other accused persons surrendered themselves before the learned Metropolitan Magistrate, Tis Hazari Court on 16.12.2015 and 21.12.2015. After completion of the investigation, the

prosecution has filed the charge sheet on 02.01.2016. It is further stated that all the accused persons are in judicial custody since the date of their arrest.

5. Mr. Kulbhushan Mehta, learned counsel for the petitioner contended that the present FIR is a counter blast to the FIR No. 1012/2015 which was registered one day prior thereto, i.e., on 12.10.2015 under Section 509 of IPC against the complainant – Pradeep Kumar @ Sonu on the basis of the complaint made by Smt. Devendri wife of Bhagwan Singh and sister of K.P. Singh, as the complainant of the present FIR abused them and made sexual remarks while giving threats to Smt. Devendri on 11.10.2015. Thereafter statement of Devendri under Section 164 of Cr.P.C. were recorded before the learned Metropolitan Magistrate. Learned counsel for the petitioner further contended that the complainant had himself damaged his car and the applicant is falsely implicated in the present case.

6. It is further contended on behalf of the petitioner that the applicant is in custody since 14.10.2015 and the investigation of the case is complete and the prosecution has filed the charge sheet under Section 308/452/427/506/34 of IPC. Lastly, it is contended that the applicant/petitioner belongs to service class, having a meager amount of earning just to sustain himself and his family and he is the only bread earner of his family comprising of his wife and school going children of tender age. Apart from this, learned counsel for the petitioner further contended that the applicant/petitioner has deep root in the society with good reputation and shall not flee away from

administration of justice. As the trial of the case may take considerable time and no purpose shall be served in keeping the applicant behind bar, therefore, the applicant ought to be released on bail.

7. Ms. Manjeet Arya, learned Additional Public Prosecutor for the State submitted that the CD of the CCTV footage has been taken into police possession which shows that the accused persons were beating the complainant and breaking the office glasses and that of complainant's swift car. The CD and the DVR of the CCTV camera installed in the office of complainant has been sent to FSL Rohini for expert opinion on 02.12.2015 and the result of which is still awaited. It is further submitted that out of 20 witnesses, the prosecution has already examined five witnesses and the material / public witnesses are yet to be examined. The State has also raised apprehension of tampering with the evidence or influencing the witnesses, in case the applicant is released on bail. Therefore, learned Additional Public Prosecutor for the State contended that the applicant ought not be granted bail in this case.

8. The submissions and counter submissions made by learned counsel for the petitioner as well as by learned Additional Public Prosecutor for the State have been heard and this Court has also perused the material placed on record.

9. After considering the contents of the present petition as well as the status report filed on record, the admitted facts of the case are that the petitioner is in custody since 14.10.2015; charge sheet in this case has been filed and therefore, the petitioner is no more required for

further investigation; the applicant/petitioner is the only earning member of his family and has wife and kids of tender age and the fact the trial of the case may also take time to conclude.

10. Considering the aforesaid facts and circumstances, this Court is inclined to grant bail to the petitioner – Ashok Kumar Dass in the present case subject to his furnishing personal bond in the sum of Rs.25,000/- with two sureties of the like amount, to the satisfaction of the Trial Court.

11. Before parting with the order, this court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

12. With aforesaid direction, the present bail application stands disposed of. Dasti.

P.S.TEJI, J

JULY 12, 2016

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