

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Judgment delivered on : August 23, 2016

+ BAIL APPLN. 1617/2016
KAPIL KUMAR SHARMA Petitioner
Through: Mr.R.P. Luthra, Advocate

versus

STATE Respondent
Through: Mr. Amit Chadha, Additional Public
Prosecutor for the State with Sub-
Inspector Hawa Singh, PS Madhu
Vihar, Delhi.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

ORDER

P.S.TEJI, J.

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.371/2016, under Sections 308/34 of the Indian Penal Code, Police Station Madhu Vihar, New Delhi,.

2. The prosecution's case is registered on the statement one Gauri. It is alleged that the complainant and her sister Mithlesh @ Manisha married in the same house and after few days of their marriage, her husband and brother-in-law started torturing them on account of dowry and started beating them. It is stated by the complainant that on 26.06.2016, her brother-in-law beat her sister and on the next morning

when her sister told the whole incident to her father-in-law namely Mahesh Sharma, the father-in-law made a call to complainant's maternal uncle (mama) to interfere in the matter. At about 8 PM, the complainant's uncles namely Lakhan Lal, Kanhiya Lal, Balchand, Bhojpal, alongwith maternal aunts (mami) – Kamlesh with Pushpa and Durga and cousin Rahul visited the matrimonial home. It is alleged that at about 10.15 pm, when her maternal uncle alongwith her maternal side persons were standing outside the house, then her husband alongwith his friends namely Kapil, Rahul Shukla and Manish who were carrying rods and sticks in their hands came and started giving beatings to her maternal uncle and other persons. When the complainant tried to stop them, complainant's father-in-law and mother-in-law told them to beat the complainant as well. Thereafter, her husband, brother-in-law and their friends joined the quarrel and gave beatings to them. PCR was called and the injured were taken to LBS Hospital for treatment.

3. Learned counsel for the petitioner contended that the petitioner has filed a bail application before the learned Additional Sessions Judge which was dismissed vide order dated 28.07.2016. It is contended on behalf of the petitioner that the present dispute is a matrimonial one and the petitioner is neither a family member nor a relative of the complainant's in-laws, but is merely a friend of main accused Sumit and Amit. More so, no specific role has been assigned to the petitioner except the general allegation to the effect that complainant's husband and their friends – Kapil, Rahul Shukla and

Manish reached the spot with danda and hockey stick and they started beating the complainant. It is further contended on behalf of the petitioner that father-in-law and mother-in-law of the complainant were granted anticipatory bail on 30.06.2016. Likewise, the main accused – Amit Kumar, Sumit Kumar and Sunil Kumar have already been released on regular bail vide order of learned Additional Sessions Judge dated 13.07.2016 and 18.07.2016 respectively. Learned counsel for the petitioner further contended the present dispute is a matrimonial dispute wherein complainant and her relatives are on one side and the main accused, i.e. husband and her in-laws on the other side and there is every likelihood of amicable settlement between them.

4. It is further contended on behalf of the petitioner that the petitioner is neither a previous convict nor has ever been involved in any other case and is of only 22 years of age. Apart from this, the petitioner is required to appear in the examination. However, the petitioner is ready to join the investigation as and when required. Therefore considering the peculiar facts and circumstances of this case, the petitioner be granted anticipatory bail in this case.

5. Mr. Amit Chadha, Additional Public Prosecutor appears on behalf of the State and submitted that for the purpose of recovering the danda used in the incident, the custodial interrogation of the petitioner is required.

6. I have heard learned counsel for the petitioner 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.

7. Indisputably, the other co-accused persons are on bail. It is also an admitted fact that the present case pertains to matrimonial dispute, *inter-se* the complainant and her in-laws. It is also a fact that no specific injury is attributed to anybody in this case.

8. 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 main accused, i.e. husband and brother-in-law of the complainant alongwith father-in-law and mother-in-law have already been granted bail in the present case. Therefore, this Court is inclined to grant bail to the petitioner – Kapil Kumar Sharma in the present case. Accordingly, the petitioner – Kapil Kumar Sharma is directed to join the investigation as and when required, by notice in writing, and in the event of arrest, the petitioner – Kapil Kumar Sharma 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.

9. The petitioner is further directed not to tamper with the evidence, not to influence the prosecution witnesses and not leave the country without prior permission of the Court concerned.

10. 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.

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

Dasti.

(P.S.TEJI)
JUDGE

AUGUST 23, 2016
pkb

