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

+ **BAIL APPLN. 1830/2016**

NITESH KAUSHIK

..... Petitioner

Through: Mr. Sanjay Sharma, Advocate.

versus

THE STATE

..... Respondent

Through: Ms. Anita Abraham, APP along with
SI Raghvendra Singh, DIU/NE Distt,
for the State.
Mr. Bir Singh, Advocate for the
complainant.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
09.09.2016

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Crl. M.A. No. 13941/2016

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

BAIL APPLN. 1830/2016

Issue notice. Ms. Abraham accepts notice on behalf of the State.
Learned counsel for the complainant also appears and accepts notice.

This petition has been preferred by the petitioner to seek anticipatory

bail apprehending arrest in case FIR No.574/2015 under Section 307 IPC registered at Police Station – Gokalpuri.

As per the allegations contained in the FIR, six persons had stopped the bike of the complainant at the turning of the street and started beating him. Thereafter, Satyadev Kaushik and Sunil fired upon the complainant but he escaped. The petitioner is alleged to be one of the six persons aforesaid.

The submission of learned counsel for the petitioner is that the genesis of the dispute is a civil claim made by the petitioner and his family against the complainant and his family for an amount of Rs.7 Lakhs. Initially, a complaint under Section 138 of the NI Act was filed, premised on the cheque issued by the family of the complainant. The same was, however, withdrawn and a civil suit was instead pursued, which was decreed for an amount of Rs.7 Lakhs. An appeal has been preferred by the defendants, which is pending before this Court.

The case of the petitioner is that the present is a case of false implication and this is not the only case in which the petitioner and his family members have been falsely implicated. Learned counsel for the petitioner has sought to draw attention of the Court to the orders dated 20.05.2014 passed in Bail Appln. No.1008/2014 titled *Veer Dev Kaushik Vs. State*, wherein the family members of the petitioner were granted anticipatory bail in case FIR No.355/2014 under Section 354B/ 452/ 34 IPC registered at PS–Gokalpuri, wherein subsequently Sections 376/ 377 IPC have also been added. The petitioner is also a co-accused in the said case, and he was also granted anticipatory bail in the said case vide order dated 27.05.2014 passed in Bail Appln. No. 1228/2014.

Learned counsel for the petitioner points out that the complainant and his family members serving in the police in Delhi and in U.P., and they have threatened to implicate the petitioner and his family members in the false cases. A DD entry was also made vide DD No.21B dated 20.01.2014 regarding the said threats before the SHO, PS-Gokalpuri, Delhi.

On the other hand, the submission of learned APP is that the petitioner has not joined the investigation. To this, learned counsel for the petitioner submits that the petitioner is ready and willing to join the investigation.

Learned counsel for the complainant points out that there is a CCTV footage, which shows the presence of the petitioner with a weapon at the time when the complainant was attacked.

Learned counsel for the petitioner submits that while granting anticipatory bail to the two other co-accused in the same case, the learned ASJ has already considered the effect of the said CCTV footage. It is observed that there is no date or time indicated in the CCTV footage. Even otherwise, the CCTV footage does not implicate the petitioner as the person who allegedly fired the shot on the complainant.

In these circumstances, I am inclined to allow the present petition. Accordingly, it is directed that in case of his arrest, the petitioner shall be released on bail upon furnishing personal bond with one surety in the sum of Rs.25,000/- to the satisfaction of the arresting officer. The same is subject to the condition that he shall join the investigation as and when called for. He shall initially join the investigation on 10.09.2016 at 11 a.m. at Police Station – Gokalpuri and such further dates as the I.O. may require him. The petitioner shall not contact the complainant or any of the family members of

the complainant or any other witnesses.

The petition stands disposed of.

The observations made hereinabove are only prima-facie and tentative and are not a reflection on the merits of the case.

Dasti.

SEPTEMBER 09, 2016

B.S. Rohella

VIPIN SANGHI, J