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

+ **BAIL APPLN. 1961/2016**

SACHIN @ PARUL GUPTA

..... Petitioner

Represented by: **Mr. M.C. Kashyap, Adv.**

versus

STATE (NCT OF DELHI)

..... Respondent

Represented by: **Mr. Hirein Sharma, APP with
Mr. Sanjiv Gupta, ACP/Preet
Vihar, Insp. Tanvir Ashraf,
SHO PS Shakarpur, SI Rahul
and SI Yogesh, PS Shakarpur.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
18.11.2016

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1. By this petition, the petitioner seeks regular bail in case FIR No.2209/2015 under Sections 394/397/34 IPC registered at PS Shakarpur.
2. Learned counsel for the petitioner contends that on the quarrel which took place on the night of 23rd September, 2015, PCR calls were made from both the sides i.e. by the complainant party and by Rahul, the brother of main accused Ravi simultaneously. However, since the complainant Manish Sharma's brother-in-law is an advocate, who is also an injured, FIR on their complaint was registered and the version of the petitioner was ignored. Further the petitioner was only a witness, had no role to play and was falsely implicated. He further submits that on or about 18th October, 2015 the petitioner went to the Court when the bail application of main

accused Ravi was listed and wanted to apprise the facts to the Court when the Court directed that the petitioner be examined however despite the petitioner joining the investigation on 30th October, 2015 and thereafter he was implicated. Thus, he finally surrendered on 10th August, 2016.

3. The above noted FIR was registered on the complaint of one Manish Sharma who alleged that he was a resident of Ambala and had come to Delhi to meet his sister at Ganesh Nagar-II. At about 11.00 PM after taking the dinner, he had gone for strolling near Shakarpur Village when three boys surrounded him. One of the boys gave knife blow to him and snatched his gold chain weighing 2.5 tolas and when he objected to the same, the other boy gave a blow on his face due to which he received injury near his eye. He cried for help when one of the three boys shouted that complainant be finished. In the meantime, his brother-in-law i.e. Sandeep Sharma came on the motorcycle. Seeing him, the complainant cried for help. When his brother-in-law tried to call the PCR at 100 number, his mobile phone was snatched. In the meantime, the said persons also giving him beatings and after snatching his mobile phone fled away.

4. Statement of Sandeep Sharma, brother-in-law of the complainant was recorded on 24th September, 2015 according to which his brother-in-law Manish Sharma had come from Ambala and at night when he was coming to his home from office on the motorcycle he saw that three boys were beating his brother-in-law and one of them had a knife in his hand. On seeing Sandeep Sharma, his brother-in-law i.e. the complainant Manish Sharma informed him that those boys have looted him and broken his gold chain. When he wanted to call up 100 number, one boy snatched his phone and assaulted him also. He suspected that the boys were intoxicated.

5. Supplementary statement of Manish Sharma was recorded on 9th February, 2016 wherein he identified Rohit and Sachin as two other accused and stated that along with Ravi these three were the persons who assaulted on that night and Sachin had knife in his hand from which they threatened him and Sandeep Sharma, snatched the gold chain from him and Ravi snatched the mobile phone from his brother-in-law.

6. A perusal of the FIR shows that Manish Sharma stated that out of the three boys one boy stabbed him with knife from the back side and one snatched his gold chain of 2.5 Tolas from his neck and when he opposed one boy stated that let he be finished. A perusal of the CDRs reveal that call was made to 100 number from the mobile phone No.9882999982 which belongs to complainant Manish Sharma at 23:03:05 and immediately thereafter within 9 seconds a call was made from mobile number 9560966517 at 23:03:14 followed by another call at 23:04:00 hrs. by Rahul, brother of Ravi. Though as per the disclosure statement of Ravi, the name of the petitioner came to light immediately after the incident on the next day itself however a notice to him for joining the investigation was given only on 24th October, 2015 firstly to join on the same day and thereafter on 28th October, 2015. After going through the case diary, this Court finds no case diary of 24th October, 2015. Even in the case diary of 28th October, 2015 it is not mentioned that despite a notice being given to the petitioner to join the investigation he has not joined the same. Primarily there is some substance in the petitioner's contention that when he appeared before the Court on or about 18th October, 2015 and from the record it is evident that the bail application of Ravi was listed on 19th October, 2015 whereafter he was sought to be examined unlike the co-accused Rohit who was given a notice

under section 41A Cr.P.C. on 25th September, 2015 itself.

7. Without commenting on the merits of the matter any further it is sufficient to note that injuries received to the complainant and his brother-in-law are simple in nature, petitioner is no more required for custodial interrogation as the investigation is almost complete and learned APP for the State submits that charge sheet will be filed in two days and the petitioner has no past criminal antecedent. Thus, considering these facts I deem it fit to grant bail to the petitioner. It is therefore directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25000/- with one surety of the like amount subject to the satisfaction of learned Trial Court, further subject to the condition that the petitioner will join the investigation if so directed and will not leave the Country without prior permission of the Court concerned.

8. Petition is disposed of.

9. Order dasti.

MUKTA GUPTA, J.

NOVEMBER 18, 2016
‘v mittal’