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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of hearing and Order: February 06, 2017

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BAIL APPLN. 172/2017

RAJAN

..... Petitioner

Through: Mr. Rajan Chaudhary, Advocate

versus

STATE

..... Respondent

Through: Mr. Sundershan Joon, Additional
Public Prosecutor for the State

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

P.S.TEJI, J. (Oral)

1. By this petition filed under Section 439 read with Section 482 of Cr. P.C., the petitioner is seeking bail in a case registered vide FIR No.806/2016 under Section 307/34 of IPC, at Police Station Mukherjee Nagar, Delhi.

2. The present case is registered on the complaint of Ms. Kranti Verma, who informed that on 28.08.2016, her elder brother Ram Kishan, after taking dinner at about 11.30 PM went into Gali for a walk. When he reached at the corner of the Gali, she heard the voice of her brother and when she went to her brother, she saw that three boys i.e., one Aashu, brother of Ashu (son of Kanwarpal), and one other person, whose names were not recalled by the complainant, were quarrelling with her brother. Out of the three accused, Aashu had

caught hold of her brother and gave fist blow on his face and Kanwarpal's son gave Ustra blow on his waist thrice. She tried to save her brother but she was attacked by them, but somehow she escaped. Upon raising alarm, all the three accused fled away from the spot. She called at 100 (PCR) and thereafter took her brother Ram Kishan to HRH Hospital.

3. Case was registered under Section 307/34 of IPC, petitioner was arrested and after completion of the investigation charge sheet was filed before the court of learned Additional Sessions Judge. The petitioner filed an application for seeking bail, which was dismissed vide order dated 01.12.2016 by learned Additional Sessions Judge, while observing that the evidence in the case is yet to be recorded and the petitioner may threaten the witnesses, if he is released on bail. Hence, the petitioner has filed the instant bail application before this court.

4. Learned counsel for the petitioner contended that the petitioner has been falsely implicated in the case and is in judicial custody since 30.08.2016; the doctor conducting the MLC has opined the nature of injury being simple; investigation is complete; petitioner is sole bread winner of his family; charge sheet in the case has already been filed and there is no chance of tampering with the prosecution witnesses, therefore the petitioner be granted bail in the present case.

5. On the contrary, Mr. Sudershan Joon, Additional Public Prosecutor for the State contended that the petitioner is charged with

the offence punishable under Section 307/34 IPC and as per MLC of the injured he had sustained incensed wound (+) posterior aspect of trunk 7x2 cm, 10x3x1 cm, 6x2 cm approximately clw on upper lip and the injured was declared unfit for statement on the date of incident. More so, one of the accused Aashu is still absconding and the case of another accused is subjudiced with the JJB-1st, Kingsway Camp, Delhi. It is further stated that the charge sheet of the case has been filed and the statement of injured is yet to be recorded, therefore the order passed by learned Additional Sessions Judge does not call for any interference as it does not suffer from any irregularity.

6. I have gone through the contentions raised by the petitioner in the present petition and also heard the submissions of learned Additional Public Prosecutor for the State and also gone through the contents of FIR, MLC.

7. After careful scrutiny of the facts and circumstances of the case, and the contents of the FIR in question, this court observes that the injured has suffered with incensed wound (+) posterior aspect of trunk 7x2 cm, 10x3x1 cm, 6x2 cm approximately clw on upper lip. This court further observes that though the charge sheet has been filed; the co-accused is still absconding; and the other accused matter is subjudiced before the JJB-1st, Kingsway Camp, Delhi.

8. From the facts of the present case, this court observes that the recovery of ustra could not be effected, co-accused is still absconding, and the prosecution witnesses have yet to be examined, especially the

injured witness. Therefore, this court is not inclined to grant bail to the petitioner – Rajan at this stage. Accordingly, the present application filed by the petitioner is dismissed.

9. 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.

10. With aforesaid directions, the present bail application is disposed of.

FEBRUARY 06, 2017
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(P.S.TEJI)
JUDGE

