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

+ **BAIL APPLN. 492/2017**

VINOD

.....Petitioner

Through: Mr. Kuldeep Rana, Advocate.

versus

THE STATE GOVT. OF NCT OF DELHI

....Respondents

Through: Ms.Anita Abraham, APP for Mr. Amit Ahlawat, APP for the State.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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11.08.2017

1. By way of the present petition filed under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') the petitioner seeks grant of regular bail in FIR No. 332/2016 under Sections 307/34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), registered at Police Station Sagarpur, Delhi. The petitioner is stated to be in judicial custody since 14.07.2016. Status report is on record.
2. The present case is registered on the complaint of one Ms. Nisha, who informed that, on 02.06.2016 she was thrown from the roof of third floor of the house by her husband/petitioner and other in-laws/co-accused, as a result of which she sustained serious injuries. Soon after the incident, the complainant was taken to DDU Hospital for first-aid and after examination the doctor found injuries on her

spine, left elbow and on left ankle. On 04.06.2016 the complainant was again admitted to the hospital due to persisting injuries and she had to remain in hospital for about 47 days.

3. On 21.06.2016, late MLC No.5085/16 was prepared, recording the statement deposed by the complainant that, she was assaulted and pushed from the roof of the third floor of the house by her husband/ petitioner and her in-laws. As the result of the said MLC was found grievous, FIR dated 10.07.2016 was registered under Section 308/34 IPC, petitioner was arrested and after completion of the investigation charge sheet was filed under Section 307 IPC before the court of Additional Sessions Judge (hereinafter referred to as 'ASJ'). In the statement recorded under Section 164 Cr.P.C., the complainant reiterated the facts resulting into the alleged offence.
4. The present petitioner filed an application for seeking bail, which was dismissed vide order dated 21.02.2017 by the ASJ. Hence the instant bail application.
5. Learned counsel for the petitioner contended that the petitioner has been falsely implicated in the case and is in judicial custody since 14.07.2016; that as a matter of fact the complainant fell from the roof of third floor of the house and was admitted in the hospital by the petitioner himself; that as per the MLC the complainant had first stated that she suffered injuries by falling from the stairs of the house but subsequently the complainant has changed her statements at the instance of her family members; that no cogent explanation has come forth from the complainant for the delay in lodging the complaint; that the investigation is complete and further

incarceration of the petitioner would serve no useful purpose in the interest of justice; that the charge sheet in the case has already been filed and there is no chance of tampering with the prosecution witness; that the other co-accused have already been granted anticipatory bail therefore the petitioner be granted bail in the present case.

6. Refuting the contentions of the petitioner, Ms. Anita Abraham, learned APP appearing for the State contested the bail application and submitted that the petitioner has been charged with a serious and grave offence that is punishable with imprisonment which may extend to ten years and that he has played an active role in the commission of the offence, wherein the complainant received grievous injuries and hence, the present bail application cannot be allowed.
7. I have heard the arguments advanced by learned counsel for the parties and perused the material available on record.
8. At the outset, it is observed from a perusal of the MLC dated 21.06.2017, that the injuries sustained by the complainant were "*grievous*" in nature. She remained admitted in the hospital for about 47 days. Even at the time of examination in the Court, the statements of the complainant were recorded in the ambulance as she could not walk due to serious injuries in the spine. Reports have revealed injuries in her left ankle, left elbow and spinal cord.
9. Further, a nexus between the injuries sustained by the complainant, as revealed by the medical evidence on record, and the facts leading to the commission of the alleged offence, can be drawn from the

statements deposed by the complainant before the doctor preparing the MLC. She further reiterated the same facts in the statement recorded by the Magistrate under Section 164 Cr.P.C. Moreover, the complainant was also subjected to a lengthy cross-examination and nothing could be elicited therefrom to discard her testimony.

10. In light of the aforesaid, the ground raised by the petitioner, that inconsistent statements have been given by the complainant, stands rebutted, as it has been held in a catena of judgements that minor contradictions, improvements and inconsistencies in the statements cannot be a ground for throwing out the case in its entirety. This view is further supported by the decision of the Hon'ble Supreme Court in *Abdul Sayed v State of Maharashtra* reported in (2010) ALLMR (Cri) 3691 (SC) wherein the question of weight to be attached to the evidence of a witness who was himself/herself injured in the course of the occurrence has been extensively discussed. It was held as under:

"That law on the point can be summarised to the effect that the testimony of the injured witness is accorded a special status in law. This is a consequence of the fact that the injury to the witness is an inbuilt guarantee of his presence at the scene of the crime and because the witness will not want to let his actual assailant go unpunished merely to falsely implicate a third party for the commission of the offence. Thus, the deposition of the injured witness should be relied upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies therein."

11. After careful scrutiny of the facts and circumstances of the case, the contents of the FIR in question and other material placed on record and in view of the serious allegations against the petitioner and other factors including severity of the punishment prescribed in law, I find no sufficient ground to grant bail to the petitioner. Accordingly, the present application filed by the petitioner is dismissed.
12. 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.
13. Accordingly, the petition stands disposed of.

SANGITA DHINGRA SEHGAL, J

AUGUST 11, 2017

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