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

+ **BAIL APPLN. 1939/2015**

SANJAY BHATI

..... Petitioner

Through: Mr. Manoj Ohri, Sr. Adv. with Mr. Krishan
Kumar, Ms. Vidushi Sharma, & Mr. Ram
Chander Bhadoria, Advocates

versus

THE STATE

..... Respondent

Through: Mr. Akshai Malik, APP for the State
Mr. Harish Sethi, Adv. with Mr. Sumit
Tanwar, Adv. for complainant.

+ **BAIL APPLN. 950/2016**

ANIL CHAUDHARY

..... Petitioner

Through: Mr. Manoj Ohri, Sr. Adv. with Mr. Krishan
Kumar, Ms. Vidushi Sharma, & Mr. Ram
Chander Bhadoria, Advocates

versus

THE STATE

..... Respondent

Through: Mr. Akshai Malik, APP for the State
Mr. Harish Sethi, Adv. with Mr. Sumit
Tanwar, Adv. for complainant.

+ **BAIL APPLN. 958/2016**

SUMIT BHATI

..... Petitioner

Through: Mr. Manoj Ohri, Sr. Adv. with Mr. Krishan
Kumar, Ms. Vidushi Sharma, & Mr. Ram
Chander Bhadoria, Advocates

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versus

THE STATE

..... Respondent

Through: Mr. Akshai Malik, APP for the State
Mr. Harish Sethi, Adv. with Mr. Sumit
Tanwar, Adv. for complainant.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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28.04.2017

Each of these applications have been moved invoking Section 438 of the Code of Criminal Procedure, 1973 (Cr.P.C.) by the applicants Sanjay Bhati, Anil Chaudhary and Sumit Bhati seeking grant of anticipatory bail in the context of FIR No.470/2015, under Sections 452/506/336/34 IPC of Police Station Fatehpur Beri.

The learned counsel for the applicants, for the complainant and the learned Additional Public Prosecutor have been heard. The record and the case diary of investigation of case FIR No.470/2015 has been perused.

The FIR was lodged at the instance of Satbir Singh Tanwar, father of Jai Bhagwan, he being his elder son and with whom there had been some dispute over property. It appears on 07.07.2015 the said Jai Bhagwan had visited the house of the first informant and had raised certain dispute about the property. This led to some minor scuffle wherein Virwati, wife of the first informant was also assaulted. It is alleged that at 11:45 p.m. the said Jai Bhagwan along with some of his associates, the three applicants herein having been named, came to the house of the first informant. It is alleged

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that the applicants were carrying firearms in their hands and immediately after entering into the house, they indulged in physical scuffle with the inmates and the firearm was used to shoot in the air by applicants Sanjay Bhati at the time of fleeing away, after having caused minor injuries on some of the inmates of the house. It is alleged that during the escape, applicant Sanjay Bhati had fallen down near a drain from where certain incriminating material, primarily five live rounds of ammunition of 7.62 bore were also recovered. The case involves offences punishable under Sections 452/506/336/34 IPC for which the case was registered as indeed offences under Arms Act.

Noticeably, during the course of investigation the firearm as such has not been recovered so far. When these bail applications was moved by applicant Sanjay Bhati, on the very first date it was conceded by the learned Additional Public Prosecutor that in the face of the submissions made on behalf of the complainant, who was also present through counsel that it was an incident out of a family dispute over distribution of the property, no coercive steps would be taken against the applicant Sanjay Bhati, subject to he joining investigation. The said protection has continued ever since. It was confirmed by the learned Additional Public Prosecutor on 18.09.2015 that the applicant had jointed investigation.

The applications of Anil Chaudhary and Sumit Bhati which were filed later came up for hearing together on 13.05.2016 and it was submitted jointly by the counsel on their behalf and the counsel for the complainant that the FIR being the consequence of a dispute between the members of the same family which had escalated but includes the extended families, the

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parties wished to explore the possibility of arriving at amicable resolution. On their request, time was granted for the purpose. On 27.05.2016, when the said applications came up, the learned APP, on instructions, from the investigating officer submitted that since private parties to the said FIR are relatives by blood and were attempting to arrive at an amicable resolution of their family disputes, no coercive steps would be taken against them. The said interim protection has continued ever since.

At the hearing today, it was again confirmed that the parties are still engaging each other to resolve their wider dispute over the property, which seems to be genesis of the incident, which is the subject matter of the present investigation.

It must be added here that during the course of hearing on the applications of Sanjay Bhati, the question of his previous involvement also came up, this on the basis of submissions made in the status report. The status report dated 16.03.2016, however, indicates that both the two most serious cases against the said applicant, they being case No.67/2007 and case no.233/2008 of Police Station Surajpur at District Gautam Budh Nagar, U.P. each involving offences punishable under Sections 3 and 4 of Uttar Pradesh Gunda Act are no longer pending. While the file of the first case is stated to be not even available, by order dated 18.07.2008, the court of Magistrate had discharged the applicant in the second said case.

In the facts and circumstances, the applicants deserve relief on these applications. They are, thus, allowed. It is directed that in the event of they being arrested during the investigation of case FIR No.470/2015, under Sections 452/506/336/34 IPC of Police Station Fatehpur Beri, the applicants, *BAIL APPLN. 1939/2015 & Etc.*

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namely, Sanjay Bhati, Anil Chaudhary and Sumit Bhati shall be released on anticipatory bail, subject to they furnishing personal bonds in the sum of Rs.50,000/- each with one surety in the like amount each to the satisfaction of the arresting officer/investigating officer, subject to the conditions that they shall join the investigation as and when required to do so, that they shall not temper with or influence any of the witnesses and that they shall not engage in any criminal activity.

Dasti.


R.K.GAUBA, J.

APRIL 28, 2017

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