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

+ **BAIL APPLN. 794/2017**

AMIT KUMAR UPADHYA

..... Petitioner

Represented by: **Mr. Ranjit Sharma, Advocate.**

versus

**STATE THR. SHO P.S. RITHALA
METRO STATION**

..... Respondent

Represented by: **Mr. Ashok K. Garg, APP for
the State with ASI Puran
Chand, PS Rithala Metro.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

12.05.2017

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1. By the present petition the petitioner seeks anticipatory bail in case FIR No. 32/2016 registered at PS Rithala Metro, Delhi for offence punishable under Section 66 of the Delhi Metro Railway Act, 2002.

2. Learned counsel for the petitioner submits that an altercation took place between the petitioner and the CDI staff which was on checking duty resulting in injuries to the petitioner. Because of the injuries, the petitioner had no option but to leave the train at Inderpuri Station and de-board the same so that another driver could take it forward. He states that carrying a mobile phone on the train is not prohibited, what is prohibited is that it should not be used while driving the train. No evidence has been collected by the Investigating Agency till date to show that the petitioner was talking while driving.

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3. On a notice being issued a status report has been filed. As per the status report the above noted FIR was registered on the written complaint of the Assistant Manager, Train Operation, dated 16th November, 2016 alleging that on 10th November, 2016, the petitioner was assigned duty No.61 with round trip to Mundka to Inderlok. He was found in possession of the mobile phone in violation of rules of the Delhi Metro Rail Corporation, when checked by the inspecting official on duty Manoj Kumar, the Chief Driver Inspector. When the petitioner was asked to hand over the mobile phone, he scuffled with the Inspector and caused injury to his senior by using square key. Later on he gave his mobile to the house keeping staff which was recovered as a piece of evidence and deposited with the Station Controller but the petitioner snatched his seized mobile phone and ran away by leaving the train at Inderlok Metro Station on his own sweet will.

4. The FIR has been registered under Section 66 of the DMRC Act which prohibits stranding the train mid way by the driver of the train. As noted above the genus of the occurrence was the possession of the mobile phone. Clause 7.4 of the Standing Operating Procedure for Information by the DMRC for train operators prohibits use of mobile phone or musical instrument or any electronic device during train driving. In the FIR the allegation of the complainant is of possession of the mobile phone and not use thereof. Further till date, during the course of investigation no CDR of the petitioner's mobile phone have been collected to find out whether he was using the mobile phone while driving the train.

5. Considering the fact that the allegations against the petitioner is of stranding the train at Inder Lok station and the version of the petitioner is

that it had to be done because he was injured in the scuffle and also because of the fact that the suspension of the petitioner has since been revoked, this Court deems it fit to grant anticipatory bail to the petitioner.

6. It is, therefore, directed that in the event of arrest the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with one surety of the like amount, subject to the satisfaction of the Arresting Officer/SHO concerned, further subject to the condition that he will join the investigation as and when directed by the Investigating Officer and will not leave the country without prior permission of the Court concerned. Any change of residential address will be intimated by the petitioner by way of an affidavit to the concerned Court as well as the Investigating Officer.

7. Petition is disposed of.

8. Order dasti.

MUKTA GUPTA, J.

MAY 12, 2017

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