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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1465/2017

JAGDISH

..... Petitioner

Through: Mr.Rajiv Mohan, Mr.Abhimanyu
Kampani & Mr.Tejasva Mehra,
Advocates

versus

STATE

..... Respondent

Through: Mr.Kewal Singh Ahuja, APP for the
State with SI Mahavir Singh, PS
Vijay Vihar, Delhi

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

01.09.2017

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1. By way of this application under Section 438 Cr.P.C. read with Section 482 Cr.P.C., the petitioner is seeking anticipatory bail in case FIR No.807/2017, PS Vijay Vihar registered under Sections 308/354/509/34 IPC.

2. Learned counsel for the petitioner submits that on 6th July, 2017 the petitioner was granted conditional anticipatory bail for a period of one week and thereafter the petitioner preferred CrI.M.C.2683/2017. After the same was dismissed, petitioner approached this Court for grant of anticipatory bail.

3. Perusal of the record shows that on 6th July, 2017, taking into consideration his age i.e. 61 years, the petitioner was granted conditional anticipatory bail for one week vide following order:

“Report filed by IO. Perused. Heard the arguments.

Ld. Counsel for the accused/applicant submit that the applicant is a Senior citizen of 61 years of age and that he is not accused of any advance of sexual harassment upon the prosecutrix. It is stated that a quarrel ensued between his son/co-accused Narender and the prosecutrix and that the applicant had gone to stop the sorting difference. It is denied that he attached the prosecutrix or his family members.

Ld.APP for the state opposes the bail application on the ground that there are three other accused persons besides the applicant who are yet to be apprehended. It is submitted that as per the version of the IO, all the accused persons including the applicant are avoiding arrest. It is submitted that out of all six injured persons including the prosecutrix, doctor's opinion in four MLC is still pending. The Court has considered the facts and circumstances where the other co-accused are still at large. There are allegations of physical assault by the applicant/accused himself allegedly causing head injury by the brother of the prosecutrix, whose opinion is still pending. It is, however, considered that all the injured have been discharged.

Keeping in view the age of the applicant/accused Jagdish, he is admitted on anticipatory bail with condition that no parity shall be drawn between him and the other three co-accused who are still at large. It is also conditional to surrender of all the other accused persons before the IO within one week. The accused/applicant Jagdish be not arrested for a period of one week and in case of surrender of all the accused persons, he is entitled to bail in event of arrest on furnishing a personal bond and surety bond in the sum of ₹30,000/- with one surety of the like amount, by the IO/Arresting Officer/concerned SHO.

It is made specific that the conditions laid down in Section 438(2) Cr.P.C. be scrupulously complied with.

Accused shall join the investigation as and when required by the IO/Arresting Officer/concerned SHO. IO shall move an appropriate application in case of non-cooperation of the accused/applicant Jagdish in joining of the investigation or making any effort in tampering with the prosecution case.

*Sd/-
Addl. Sessions Judge-1 (N-W)
Rohini: Delhi: 06.07.2017”*

4. Thereafter, instead of approaching the same Court which granted him conditional anticipatory bail for a period of one week, he filed CrI.M.C.No.2683/2017 for seeking modification in the order dated 6th July, 2017 passed by the learned Additional Sessions Judge-01 (NW), Rohini Delhi.
5. The aforesaid petition was dismissed as withdrawn.
6. On being questioned by the Court as to whether after availing anticipatory bail for a period of one week, the petitioner approached the learned Trial Court for seeking extension/surrender, learned counsel for the petitioner submitted that the petitioner did not surrender but preferred to invoke the jurisdiction of this Court under Section 482 Cr.P.C. The order passed in CrI.M.C.2683/2017 has been filed along with this petition as Annexure A-3. The period of one week from 6th July, 2017 expired much before CrI.M.C.2683/2017 came up for hearing on 18th July, 2017.
7. The petitioner could not have presumed extension of interim bail just because he intended to file a petition under Section 482 Cr.P.C. before this

Court. Such conduct of the petitioner in itself disentitles him to the discretionary relief of anticipatory bail.

8. It may also be noted that in this case the petitioner has been named as one of the assailants and it was a case where six persons suffered injury. Nature of the injuries suffered is yet to be ascertained.

9. In the facts and circumstances, the application seeking anticipatory bail is dismissed.

PRATIBHA RANI, J.

SEPTEMBER 01, 2017

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