

\$~33

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

+ **BAIL APPLN. 1551/2017**

DEEPAKPetitioner

Through: Mr. Sandeep Yadav, Advocate.

versus

STATERespondent

Through: Ms. Anita Abraham, APP for the State

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

% **25.09.2017**

1. By way of the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C') the petitioner seeks **grant of regular bail** in case FIR No.264/2017 under Sections 34/308/323 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') registered at P.S Neb Sarai Station, Delhi. The petitioner is stated to be in judicial custody since 30.6.2017. Status report is on record.
2. The brief facts of the case are that on 16.05.2017, a complaint was lodged by one Mrs. Nirmala stating that about 8:45p.m., when her younger son Amit was playing with her granddaughter Pihu outside their house, 2-3 boys came and pushed Amit. On this, Amit asked them to walk properly as he was carrying small child in his hand but the accused persons started beating him with fist.

In the meantime the complainant's nephews Suresh and Ravi intervened to resolve the issue, but the accused persons called upon their friends and relatives and gave beatings to the complainant and her family members namely Suresh, Santosh and Ravi, with sharp weapon due to which they sustained injuries.

3. Mr. Sandeep Yadav, learned counsel for the petitioner contended that the petitioner is innocent and he has no concern with the alleged offence; that he has been falsely implicated by the complainant with a mala fide intention; that the other co-accused namely Raju and Abhishek have been granted interim protection from arrest by this Court vide orders dated 31.07.2017 and 09.08.2017 respectively; and therefore the petitioner be admitted to bail on the ground of parity.
4. Per contra, Ms. Anita Abraham, learned APP appearing for the State vehemently opposed the bail application of the petitioner and submitted that the petitioner has been actively involved in the commission of the alleged offence; that the charges against the petitioner are serious; that during the course of investigation, statement of injured persons Ravi, Suresh and Santosh were recorded who stated that the accused/petitioner alongwith the other co-accused have beaten them and therefore bail not be granted to the petitioner.
5. I have heard the learned counsel for the parties and perused the material placed on record.

6. At the outset, it is observed from the records of investigation that the petitioner has been involved in the commission of the alleged offence alongwith the other co-accused. The FIR and Status Report reveal that all the four accused namely Abhishek, Raju, Deepak/petitioner and Gautam attacked the victims forcefully with knife and thereby caused grievous injuries to one Suresh and simple injuries to other the three victims including the complainant. In the MLC of victim Suresh (nephew of complaint) the inspecting Doctor has opined the nature of injuries as “grievous” and has stated that that the injuries were caused from sharp object, particulars of which are mentioned here as under:-

Wound 1. LACERATION OVER SCALP OF 4X1 cm

Wound 2. ABRASION OVER LEFT FORM ARM

Wound 3. LACERATION OVER RT CHEEK 3X1 cm

The other victims have also received simple injuries. Moreover, the petitioner has been charged with offences for which the maximum punishment provided under the Code includes imprisonment of either description which may extend to seven years. It is also likely that the petitioner may tamper with the witnesses.

7. As far as grant of parity with other accused namely Abhishek and Raju is concerned, I do not find any force in the arguments. The petitions filed by the co-accused persons namely Raju and Abhishek, have not attained finality. In the said petitions, this

court vide order dated 31.07.2017 and 09.08.2017 respectively, has directed that no coercive steps shall be taken until the next date of hearing and that the petitioners-therein/co-accused persons shall join investigation as and when required by the Investigating Officer.

8. Regard may be had to the principles for grant or refusal of regular bail, as laid down by the Apex Court in a catena of judgments and reiterated again in ***Kalyan Chandra Sarkar vs. Rajesh Ranjan***, reported in **2004(7) SCC 528**, wherein it has been held as under:-

"The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

a. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

b. Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

c. Prima facie satisfaction of the court in support of the charge.”

9. Keeping in view the settled principles of law, the aforementioned facts and circumstances of the present case, the role attributed to the petitioner and the gravity of the alleged offence, this court does not deem it fit to grant bail to the petitioner and the same is therefore dismissed.
10. Before parting with the above order, it is made clear that any observations made herein shall have no impact on the merits of the case during trial.
11. Accordingly, the petition stands disposed of.

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 25, 2017

//gr