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

+ BAIL APPLN. 1622/2017

YOGESH

.....Petitioner

Through: Mr. I.J.S. Mehra with
Ms Tabbassum Firdause, Advocates.

Versus

THE STATE OF (NCT) OF DELHI

.....Respondent

Through: Ms. Anita Abraham, APP for the State.
with ASI Surendar Kumar from Police
Station- New Delhi Railway Station

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER
12.09.2017

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1. By way of the present petition filed under Section 439 of the Code of Criminal Procedure (hereinafter referred "Cr.PC."), the petitioner seeks grant of Regular Bail in FIR No. 196/2017 under Sections 186/332/353/395/397 of the Indian Penal Code, 1860 (hereinafter referred as "IPC") registered at Police Station New Delhi Railway Station, New Delhi.
2. It is the case of prosecution as stated in the F.I.R. that on 12/03/2017, Head Constable Karanvir Singh was patrolling the Shivaji Bridge-Tilak Bridge Railway Station. At around 7:00 P.M. in the evening, while patrolling, he reached platform No. 3-4 of the footover bridge, where he saw six/seven people sitting in a suspicious condition and talking loudly while uttering abuses. He told them not to do so. On this they started

abusing him and pounced upon him. One of them snatched the wireless set L-83 from his hand and forcibly hit his head with the wireless set, while another person hit him with a glass bottle and made remarks “Mar Saale.” Thereafter, the constable fell down on the footover bridge and all the accused alighting from the stairs, absconded. Somebody made a call to 100 number and the PCR came to the spot and moved him to “RML Hospital” for medical treatment.

3. Mr. I.J.S. Mehra, the learned counsel for the petitioner contended that the complainant has filed a false and frivolous complaint, as in reality, the complainant himself was responsible for the alleged incident because he and his colleagues were harassing the group of boys to extort money from them. Moreover, other than the disclosure statement of the co-accused there is no other evidence against the petitioner that connects him to the commission of the alleged offence. The Ld. Counsel for the appellant further contends that allegation of snatching of the wireless set is also a concocted story by the complainant as the Investigating Officer or the complainant has not made any effort to trace the wireless set and the same was recovered after two days from the bushes near the platform which is a common passage of the commuters. He contended that it is highly improbable that nobody from the public or railway staff took notice of wireless set for two days which was lying at a common path. Hence the recovery of the wireless set is doubtful. It has also been stated that the applicant is a student of Delhi University and due to his illegal detention he could not appear in his annual examination which in turn is jeopardizing his career in making.

4. Per Contra, Ms. Anita Abraham, APP for the state vehemently opposed the bail application and contended that the petitioner is not liable to be granted Regular Bail as he has been actively involved in the commission of the offence. She contended that the daring manner in which the crime has been committed and the fact that a Head Constable was assaulted in open public view shows that the accused and the co-accused have no respect towards the rule of law or the law enforcing authorities. Thus it is a matter of grave concern.
5. I have heard the learned counsel for the parties at length and perused the material on record.
6. It has been revealed from the investigation that the petitioner was involved in the commission of the offence. The MLC report No. E 49642/17 of the RML Hospital highlights physical assault on HC Karanvir. The report further reveals a cut of size 3X1 c.m. over right eyebrow, a cut of size of 2X1 c.m. on left frontal area and abrasion over face. Further, all the accused refused the TIP proceedings. With respect to the recovery of the wireless set after two days, there already exists ample evidence on record to establish the presence and involvement of the appellant in the commission of crime, thus this argument does not come to the aid of the appellant. The FSL reports are awaited.
7. In ***Kalyan Chandra Sarkar vs. Rajesh Ranjan, 2004 (7) SCC 528***, the Apex court has laid down the principles of granting or refusing bail and 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.”

8. This principle was further reiterated in State of *U.P. VS Amarmani Tripathi* reported in (2005) 8 SCC21: (AIR 2005 SC 3490), wherein the apex court held as under:

“It is well settled that the matters to be considered in an application for bail are

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see Prahlad Singh Bhati vs. NCT, Delhi 2001 (4) SCC 280 and Gurcharan Singh vs. State (Delhi Administration) AIR 1978 SC 179).

(ii) While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. ”

9. Keeping in view the principle laid by the Apex Court and the aforementioned facts and circumstances as well as taking into consideration the specific role attributed to the appellant/accused and the gravity of the offences alleged, this court does not deem it fit to grant bail to the petitioner.
10. Accordingly, the present application filed by the petitioner is dismissed.
11. Before parting with the above order, it is made clear that observations made in the order shall have no impact on the merit of the case.

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 12, 2017

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