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

+ BAIL APPLN. 1621/2017 & CrI.M.A. 13367/17

KULDEEP & ORSPetitioner
Through: Mr. Abhishek Sharma, Advocate.
Versus

STATE NCT OF DELHIRespondent
Through: Mr. Amit Ahlawat, APP for the
State.

CORAM:
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER
% **13.09.2017**

1. By way of the present joint petition filed under Section 438 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') Cr.P.C., the petitioners are **seeking grant of anticipatory bail** in FIR No. 307/2017 under Sections 323/341/308/452/34 of the Indian Penal Code, 1860 registered at Police Station Mehrauli, Delhi.
2. As per the prosecution case, the present FIR was registered on the statement of complainant/Seema alleging that, on 13.05.2017 the accused Kuldeep and Sudhir alongwith other persons namely, Sudha, Pooja and Ramesh trespassed into the house of the complainant and assaulted the complainant and his father with dandas and knife. As per the FIR, petitioner/acused Sudhir was carrying knife in his hand whereas accused Kuldeep and Ramesh

were armed with dandas and they all gave beatings to complainant and his father as well as complainants physically and mentally challenged brother namely Deepak. Complainant's father got injuries on his head as he was beaten up with dandas by the co-accused Ramesh while the other co-accused gave beatings to the complainant and his brother.

3. Mr. Abhishek Sharma, learned counsel for the petitioners contended that the petitioners have been falsely implicated by the complainant; that the MLC does not support the allegations made in the FIR; that as per the FIR, petitioners have given beatings to Deepak, and MLC of Deepak suggests abrasion on the scalp which is simple in nature; that the petitioners belong to a reputable family having no previous criminal record and therefore anticipatory bail be granted.
4. Per contra, Mr. Amit Ahlawat, learned APP appearing for the State opposed the anticipatory bail application of the petitioners and submitted that they have been charged with serious and grave offences and have played an active role in the commission of the offence; hence the anticipatory bail be not granted.
5. I have heard the learned counsel for the parties and perused the material available on record.
6. Orders dated 31.05.2017, 12.07.2017, ss27.07.2017 has also been perused, whereby the anticipatory bail application filed by the petitioner was declined by the Trial Court.

7. It has been revealed from the investigation that the petitioners were involved in commission of crime. Petitioners trespassed into the house of the complainant and gave beatings to the victim. The petitioners were armed with knife and danda which directly reflects upon their intention to cause bodily injury to the complainant/victim. MLC further signifies the beatings given by the accused person to the complaint which was grievous in nature.
8. In ***Bhadresh Bipinbhai Sheth v. State Of Gujrat*** reported in ***(2016) 1 SCC 152*** case the Apex court laid down the principles of granting or refusing anticipatory which are as under:-

“ (x) We shall also reproduce para 112 of the judgment wherein the Court delineated the following factors and parameters that need to be taken into consideration while dealing with anticipatory bail:

(a) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(b) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(c) The possibility of the applicant to flee from justice;

(d) The possibility of the accused's likelihood to repeat similar or other offences;

(e) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(f) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(g) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of and 149 of the Penal Code, 1860 the court should consider with even greater care and caution, because overimplication in the cases is a matter of common knowledge and concern;

(h) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(j) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.’’

9. Keeping in view the principle laid down by the apex court, the aforementioned facts and circumstances of the present case, the allegations against the petitioners and gravity of offence this court does not deem it fit to grant discretionary relief of anticipatory bail to the petitioners. Accordingly, the petition for anticipatory bail stands dismissed.

10. Before parting with above order, it is made clear that anything observed in the present petition shall not have any bearing on the merits of the case during trial.
11. Accordingly, petition stands disposed of.

Crl.M.A.13367/17

In view of the abovementioned order, the application is rendered infructuous.

Application stands disposed of.

SANGITA DHINGRA SEHGAL, J

SEPTMEBER 13, 2017

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