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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 268/2018 & CRL.M.A. 2039/2018

LOKESH KHATTAR

..... Petitioner

Through: Mr. K.K. Manan, Sr. Adv with Mr.
Ankush Narang, Ms. Shivani Kant,
Mr. Bhavya Chauhan & Ms. Akansha
Mehrotra, Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Raghuvinder Varma, APP for
State with ASI Virender, PS
Mayapuri.
Complainant with Mr. Rohit Oberoi,
Advocate.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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19.02.2018

The status report has been submitted by the State which is placed with the connected Bail Application No. 271/18, the copy of the same is directed to be placed on the records of the present case as well.

As observed vide proceedings dated 09.02.2018, the present application has been taken up for consideration in terms and directions dated 03.02.2018 and 08.02.2018 of the Acting Chief Justice.

Vide order dated 02.02.2018, in view of the previous bail application No. 1986/17 of the applicant in CRL.M.C. 16716/17 having been declined vide order dated 04.01.2018 of the Hon'ble Ms. Justice Sangita Dhigra Sehgal.

Vide proceedings dated 02.02.2018, in view of the verdict of the Hon'ble Supreme Court in *Jagmohan Bahl v. State (NCT of Delhi)*, 2015 (1) ACR 902 (SC), *Shahzad Hasan Khan v. Ishtiaq Hasan Khan and Anr.* (1987) 2SCC 684 *State of Maharashtra v. Captain Buddhikota Subha Rao*; (1989) Supp (2) SCC 605, *M.Jagan Mohan Rao v. P.V. Mohan Rao*; (2010) 15 SCC 491, *Vikramjit Singh v. State of Madhya Pradesh*; AIR 1992 SC 474, *Chetak Construction Ltd. v. Om Prakash and Ors.* ; (1998) 4 SCC 577 and *Tamilnad Mercantile Bank Shareholders Welfare Association v. S.C. Sekar and Ors.* (2009) 2 SCC 784, the matter subject to the orders of the Hon'ble the Acting Chief Justice sought to be placed before the same Hon'ble Bench.

The proceedings dated 05.02.2018 of the said Hon'ble Bench are on the record and further directions dated 09.02.2018, the matter has been assigned to this court and thus taken up as observed herein above.

Submissions have been made on behalf of either side. It has been contended on behalf of the applicant that the applicant has not used any weapon of offence and that there is no weapon of offence required to be recovered from him and all that is alleged to have been

attributed against the applicant is use of wrist blows and that the injured has already been discharged in the instant case and that in view of the verdict of the Apex Court in “**Arnesh Kumar vs. State of Bihar & Anr.**” In **CRL.A. 1277 of 2014**, the allegations *inter alia* being only in relation to alleged commission of offence punishable under Sections 323/308/506/34 of the Indian Penal Code, 1860 and even the offence under Section 308 of the Indian Penal Code, 1860 being punishable with the maximum sentence of 7 years, the applicant is allowed to be released on bail.

On behalf of the State, it has been submitted that though in terms of proceedings dated 09.02.2018, the applicant has been joining the investigation, the same has been to no fruitful purpose as the applicant has not been co-operating in the investigation.

On behalf of the complainant, it has *inter alia* been submitted that pursuant to proceedings dated 09.02.2018, in view of the interim protection granted to the applicant while sitting in his own shop which is near to the shop of the complainant, he has been meting out threats to the complainant.

On consideration of rival submissions that has been made on behalf of either side and also taking into account, without any observations on the merits or demerits of the case, taking into account the offences against the applicant and his having been caught hold of the applicant at the time of the alleged assault by the co-accused Praveen Kumar who is stated to be absconding and also

coupled with the factum that the injured has also sustained fractures,
there is no ground of grant of anticipatory bail.

The application is declined.

ANU MALHOTRA, J

FEBRUARY 19, 2018/NC