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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2553/2019**
ASHISH KUMAR @ KALIA Petitioner
Through: Mr. Ankit & Mr. Anil Kumar,
Advocates

versus

STATE Respondent
Through: Mr. Raghuvinder Verma, APP

CORAM:
HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **05.11.2019**

1. Status report received.
2. This is an application filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.
3. The case of the prosecution is that the complainant, who is a supervisor, submitted that on 30.4.2018, at about 8:30 pm, he reached at X-46, where the guard Satender was on duty. At the same time, the petitioner came to the guard post and asked for water from Satender to have alcohol. Satender refused to give water and on refusal, the petitioner started beating up Satender, smashed his head against the wall and gave multiple blows on his face. The complainant tried to separate them and in the meantime, the mother of the petitioner came to the spot and took the petitioner home. At that moment, no severe injury was visible, hence, the complainant did not call the police. Next day, the complainant found a severe injury on the face and head of Satender and informed the same to the son of Satender.

Thereafter, Satender was taken to the hospital for treatment and he was found unfit to give the statement. It is alleged that Satender remained unfit for a long time as there was a memory loss due injury to the brain and was not able to give the statement.

4. I have heard the arguments and have gone through the MLC of Satender, wherein the injury is stated to be of grievous nature.

5. The Trial Court, vide order dated 1.5.2019, dismissed the bail application of the petitioner on the ground that even the complainant had not been examined at that stage.

6. Learned counsel for the petitioner also submitted that the Trial Court had directed for examination of Satender, however, the statement of Satender has not been recorded so far.

7. Learned APP submitted that the prosecution shall positively examine Satender as well as the other public witness on the next date of hearing before the Trial Court, i.e., 13.12.2019. The Trial Court is directed to examine Satender as well as the other public witnesses positively on 13.12.2019.

8. In view of the allegations made against the petitioner and the fact that Satender as well as other public witnesses have not been examined so far and taking into consideration the nature of the injury, which is stated to be grievous in nature, I do not find it a fit case for the grant of bail at this stage. The bail application is accordingly dismissed. However, the petitioner may move an application for the grant of bail after the

examination of Satender as well as other public witnesses.

CHANDER SHEKHAR, J

NOVEMBER 05, 2019

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