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

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Judgment delivered on: 26.03.2019

+ BAIL APPLN. 75/2019

MAHENDER SINGH

..... Petitioner

versus

STATE OF DELHI

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Rajiv Khosla and Mr. Sarvesh Tyagi, Advs.

For the Respondent : Ms. Meenakshi Dahiya, Addl. PP for the State with SI Naresh and SI Sumit P.S.Mohan Garden.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks anticipatory bail in FIR No.1004 of 2018 under Sections 307/34 of the Indian Penal Code, 1860, Police Station Uttam Nagar (now transferred to Police Station Mohan Garden).

2. Allegations in the FIR are that the complainant who was outside his house was accosted by some boys, one of whom was co accused Himanshu. They threatened him and attempted to stab him. When his father intervened they stabbed his father. The complainant received injuries on his hand whereas his father received stab wounds in his stomach which as per the medical report are life threatening.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated. He submits that the complainant has not named him in the FIR though they are closely related and well known to each other. Learned counsel submits that in the FIR the categorical statement of the complainant is that apart from Himanshu he does not know the others but can identify them if produced before him.

4. Learned counsel for the petitioner submits that though the complainant knows the petitioner being closely related being the son of the real brother of the father of the petitioner, in his statement given to the police based on which the FIR was registered on 26.10.2018 and his statement under Section 161 Cr. P.C. also on 26.10.2018, has not named the petitioner. However, subsequently after a gap of nearly 22 days in the supplementary statement recorded under Section 161 Cr. P.C. of the complainant and the statement of the father of the complainant recorded on 18.11.2018 and in the statement of the father of the complainant recorded under Section 164 Cr. P.C. on 22.11.2018, the petitioner is alleged to have been present on the spot of the incident and has been ascribed the role of exalting the main accused.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated as there was dispute between the families.

6. By order dated 15.01.2019, the petitioner was granted interim protection subject to joining of the investigation.

7. Status report has been filed which states that the petitioner joined the investigation as and when was so directed by the Investigating Officer.

Status report further indicates that no concrete evidence was found against the petitioner to establish his presence on the scene of the incident except for the statement of the injured – Ami Lal, father of the complainant.

8. Without commenting on the merits of the case and keeping in view of the totality of the facts and circumstances, I am satisfied that the petitioner has made out a case for grant of anticipatory bail.

9. Accordingly, it is directed that in the event of arrest, the arresting officer/IO/SHO shall release the petitioner on bail on petitioner furnishing a bail bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the arresting officer/Investigating Officer/SHO concerned. Petitioner shall not do anything that may prejudice either the trial or the prosecution witnesses.

10. The petition is disposed of in the above terms.

11. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

MARCH 26, 2019

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