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

% **Date of Decision: 05.02.2020**

+ **BAIL APPLN. 3104/2019**

SHEKHAR

..... Petitioner

Through: **MR. J.K.Sharma and
Siddharth Pandit, Advocates**

versus

THE STATE OF DELHI

..... Respondent

Through: **Mr. Taran Srivastava
Additional Public Prosecutor
for respondent/State with
Insp. Mahesh Kumar and SI
Balbir: DIU/Outer District.**

**CORAM:
HON'BLE MR. JUSTICE BRIJESH SETHI**

J U D G M E N T

BRIJESH SETHI, J (ORAL)

1. Vide this order, I shall dispose of an anticipatory bail application filed under section 438 Cr.P.C. read with Section 482 Cr.P.C. on behalf of the petitioner **Shekhar** in FIR No. 250/2018 u/s. 307/308/324/506/34 IPC, PS Ranholla.

2. Ld. Counsel for the petitioner has prayed for anticipatory bail on the ground that petitioner is innocent and has been falsely

implicated. It is submitted that name of the petitioner is not appearing anywhere in the FIR. Charge-sheet has been filed against co-accused in this case and stands committed to the Ld. Sessions Court. On 28.09.2019, petitioner filed anticipatory bail before the Ld. Trial Court which was listed for 30.09.2019. However, Sh. G.N.Pandey, Ld. Presiding Officer directed the petitioner to file fresh application as it was wrongly marked. The counsel for the petitioner had, thereafter, withdrawn the application. Thereafter fresh anticipatory bail application was filed which was listed for 03.10.2019 before the Ld. ASJ. In the said application, IO SI Balbir Singh filed the status report stating that proceedings under Section 82/83 Cr.P.C. have been initiated against the petitioner. It is submitted that the status report furnished by the IO is not correct as IO had already interrogated the petitioner 2-3 times at length and also recorded his statements and also verified the mobile status on the date of the occurrence. It is further submitted that on the basis of status report filed by the IO, the anticipatory bail application of the petitioner was dismissed vide order dated 29.11.2019 by the Ld. Trial Court. It is further submitted that petitioner was not present at

the spot at the time of commission of offence as he was present on his duty as a security guard in SBI ATM Village Badli, District Jhajjar, Haryana. It is submitted that petitioner is not previously convicted and is ready to join the investigation as and when required. It is, therefore, prayed that petitioner be released on bail in the event of his arrest.

3. Ld. APP for the State has opposed the anticipatory bail petition on the ground that the allegations against the petitioner are serious in nature. He along with co-accused Naveen caused grievous injuries on the person of complainant Prayag Deep with the help of sharp weapon and bricks. Ld. APP, has therefore, prayed for dismissal of the anticipatory bail application.

4. I have considered the rival submissions. As per prosecution version on 28.03.2018 at around 10.15 pm when complainant Prayag Deep was standing outside his shop on main Ranholla Road and was waiting for his cousin brother namely Manvir, suddenly he was attacked by one Naveen along with 2-3 more persons with some sharp weapon and bricks. He got seriously injured in the attack. He called 100 number and collapsed there. His brother Manvir reached

there and got him admitted in Aashirwad Nursing Home, Vikas Nagar, Delhi. Thereafter, IO reached Aashirwad Nursing Home where the complainant Paryag Deep was found admitted vide MLC No. 379/18. The injured/complainant was having four stab Injuries over-chest, abdomen all measuring (2cm X 1cm) fracture in nose and also head injury measuring (4cm X 2cm). The IO recorded the statement of the complainant and got registered the present FIR bearing No 250/19, U/s 324/308/506/34 IPC, PS Ranholla. The complainant was discharged from hospital after 20 days. IO obtained MLC report wherein the doctor opined the injury caused to the complainant as 'grievous in nature' and thus section 307 IPC was invoked in the case. During the course of investigation, accused Naveen was arrested on 30.05.2019 and during interrogation, he disclosed that on 28.03.18 at about 10.20pm he along with his associate **petitioner Shekhar** had gone to Ranholla Vihar on Motor Cycle No. HR-13G-2137 Black Colour. He attacked the complainant with stone and accused Shekhar attacked the complainant with a knife. Though, it is the defence of the petitioner that at the time of commission of offence, he was present

on his duty in SBI ATM, village Badli, district Jhajjar, Harayana but this court is of the view that defence of the petitioner cannot be considered at the time of deciding bail application.

5. The above allegations appearing against the petitioner are serious in nature. He has not joined the investigation after his name was disclosed by the co-accused Naveen. He was declared PO by the Ld. MM vide order dated 13.11.2019 and TIP of the petitioner is yet to be conducted and weapon of offence i.e. knife is also yet to be recovered. Keeping in view the above facts and particularly the fact that custodial interrogation of petitioner is required for recovery of alleged weapon of offence, no grounds for anticipatory bail are made. The anticipatory bail application is dismissed and stands disposed of accordingly.

BRIJESH SETHI, J

FEBRUARY 5, 2020

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