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

+ **BAIL APPLN. 410/2020**

PANKAJ

..... Petitioner

Through: Mr Sanjit Kumar, Ms Upasna Shukla
and Mr Dhruv Shukla, Advocates.

versus

STATE

..... Respondent

Through: Ms Kusum Dhalla, APP for State
along with SI Sunil Kumar, Police
Station Tilak Marg.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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02.03.2020

1. The petitioner has filed the present petition seeking bail in connection with FIR No. 89/2019 under Sections 308/34 of the IPC registered with PS Tilak Marg.
2. The status report has been filed, which indicates that on 17.03.2019, three PCR Calls were made reporting a quarrel had taken place near Hyderabad House, India Gate. Inquiries revealed that in the said quarrel, two people were injured and were thereafter, taken to Ram Manohar Lohia Hospital in a PCR. The complainant, at whose instance the aforesaid FIR was filed, is one of the injured.
3. The name of other injured is stated to be Raju @ Kalia. The status report indicates that inquiries were made from both of them, but they did not make any complaint or give any statement.
4. The complainant had suffered a grievous injury, inasmuch as, his left

hand was fractured and there was a 7 cm scalp lacerated injury present on the midline of the head. The injuries suffered by Raju @ Kalia were reported to be simple. It is stated that thereafter on 25.03.2019, the complainant made a complaint stating that he had been assaulted by Raju @ Kalia and some other persons. He did not name the petitioner to be one of his assailants. Subsequently, on 21.09.2019, the complainant came to the police station and made a formal complaint.

5. In his complaint, he stated that the appellant had taken out a rod from the TSR and handed the same over to Raju @ Kalia who hit the rod on his head. He had tried to deliver a second blow but the complainant had stopped it with his hand, as a result of which his hand got fractured.

6. A final report has already been submitted and the matter is now pending at the stage of framing of charges. It is stated that the complainant as well as the petitioner are both ice-cream vendor and they carry on their business of selling ice-cream in and around the India Gate.

7. The learned counsel appearing for one of the petitioners contends that the petitioner has been falsely implicated on account of business rivalry.

8. At this stage, it is not necessary to examine the merits of the allegations in detail. However, it is apparent that there has been a considerable delay in naming the petitioner. The complainant had not made any allegation against the petitioner till 21.09.2019. It also appears that both the complainant and the petitioner carry on their business in and around India Gate and there would have been no difficulty for the complainant in identifying the petitioner. However, the complainant had not made any

statement in the first instance (in his statement given at the hospital).

9. It is also material to note that Raju @ Kalia had also suffered injuries and the events, as narrated by the complainant, do not explain as to how he had received injuries.

10. Considering the circumstances of this case, this Court considers it apposite to allow the present petition.

11. The petitioner is directed to be released on bail on his furnishing a personal bond in the sum of ₹10,000/- with two sureties of an equivalent amount to the satisfaction of the concerned Trial Court. The petitioner shall provide his mobile number and ensure that he is reachable at all times. He shall also mark his presence at PS Tilak Marg on the first Monday of each calendar month. This is also subject to the police verifying the petitioner's address.

12. The petition is allowed in the aforesaid terms.

13. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

MARCH 02, 2020
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