

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLICATION No.519/2020**

Judgment reserved on : 13.03.2020

Date of decision : 18.03.2020

AMIT AGGARWAL

..... Petitioner

Through: Mr. Prateek Gupta & Ms.
Abhilasha Duggal, Advs.

versus

THE STATE NCT OF DELHI & ORS Respondents

Through: Mr. Kewal Singh Ahuja, APP
for State with SI Amit
Aggarwal & ASI Manoj
Raghav, PS Maurya Enclave
Mr. Maninder Singh, Mr.
Saukalp Kohli, Mr. Aahil Arora
& Mr. Vikram Kalra, Advs for
complainant.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

1. The applicant seeks grant of anticipatory bail under Section 438 r/w Section 482 of the Cr.PC, 1973 in relation to allegations levelled against him qua FIR No.11/2020, PS Maurya Enclave, under Sections 325/354/506/34 of the Indian Penal Code, 1860.
2. Notice of the application was issued to the respondent no.1/ the State and to the complainant of the FIR in question. The status report

has been submitted on behalf of the State dated 20.02.2020 under the signatures of the SHO, PS Maurya Enclave, which reads to the effect:

“

Complainant alleged in her complaint that accused Amit Aggarwal is her neighbor and stays in the same building at Ground floor. Amit has carried out illegal construction and has encroached upon the common area at the ground floor near stair case. Due to this encroachment, water drainage pipe of her residence was damaged and to make it functional, a temporary bent was fixed. Due to this bent, the drainage pipe often used to get blocked. In this regard, whenever her husband requested Amit to get their drainage pipe repaired but he refused and started misbehaving with her husband. She further alleged, on 6-11-2019, her husband went out for his work at Financial Commissioner, Sham Nath Marg, Civil Lines at around 12 p.m. She was alone at home when Amit Aggarwal's wife came to her house and asked her to open the gate to which She asked her for what purpose she has come. She replied that she and her husband wanted to get their water tank repaired, kept at the terrace above her house. She called her husband through our landline phone and made Amit's wife to speak to her husband. During their conversation, her husband objected as she was alone at home and requested them to get our drainage pipe also repaired and get their water tank repaired thereafter and she went back. Thereafter, Amit along with his two associates namely Sheru and one another, and a plumber came to her house and started shouting at her to open the main gate installed in the stair case outside her house. Initially, she did not open the door as She was afraid that Amit would harm her. After few minutes, Amit again told her in a polite manner “AUNTY, DARWAZA KHOLO MUJHE BAS TANKI (WATER TANK) SAAF KARWANI HAI PLUMBER SE”. Upon his assurance, she opened the door and Amit immediately pushed her and touched her chest and pushed her aside and ran above to the terrace

with his associates and plumber. Thereafter, she called her husband & apprised him about the incident. Her husband came & went to the terrace & requested the plumber to stop the work. Amit got infuriated on this and took the iron pipe (rod) and hit her husband on his left hand. Thereafter, Amit shouted "BUDHE! AAJ TO MAIN TERA KAAM TAMAAM KAR DUNGA CHUHE TUJHE CHHAT SE UTHAKAR NEECHE PHENK DUNGA". Further, Amit asked his associates for help and asked the plumber to give him Axe (AARI) & then Amit put that "AARI" on her husband's neck. Somehow, her husband got himself free & ran. Amit caught hold off her Husband & threw him on the floor & her husband fell on his back & hurt his spines badly. Her husband got up again & went down to the room & called the PCR at 2.16 PM & thereafter, called PCR 3-4 times. Thereafter, Amit's wife & mother came to the terrace & started abusing her & her husband. After sometime, PCR came to their residence and took her husband to BSA Hospital, Sector-6, Rohini, Delhi for treatment. As per the contents of the complaint & nature of injuries sustained by Deepak Kohli (Husband of complainant) a case vide FIR No. 11/2020 U /s 325/354/506/34 IPC was registered at PS Maurya Enclave and investigation was handed over to ASI Manoj Raghav.

During investigation, statement U / s 164 CrPC of the complainant was recorded in which she supported her allegations mentioned in FIR. Thereafter, accused Amit Aggarwal filed an application for anticipatory bail before the Hon'ble District & Sessions Court, Rohini where both the parties submitted that they both wanted to settle the dispute mutually & the matter was sent to mediation centre, Rohini courts and accused Amit Aggarwal was directed to join the investigation. But the matter could not be resolved.

On 09.02.2020, accused Amit Aggarwal was served a Notice u/s 41(A) CrPC to join the investigation, who joined the investigation on 10.02.2020 but did not co-

operate in the investigation. He did not reveal the facts regarding whereabouts of the weapon of offence.....”

3. *Inter alia* it has been stated through the status report that the applicant has not co-operated in the investigation and recovery of the weapon of the offence is yet to be made and that custodial interrogation of the applicant is also required in as much as the co-accused Sheru and one more person have not joined the investigation and were evading arrest.

4. On behalf of the applicant it is strenuously urged that the FIR bearing No.11/2020, PS Maurya Enclave lodged on the complaint of the respondent no.2 herein was an aftermath to a cross FIR bearing No.10/2020, under Sections 323/506/509/34 of the Indian Penal Code, 1860, which had been lodged on the complaint of Swati Aggarwal, wife of the present petitioner in which there were allegations of molestation and misbehavior towards her, as allegedly committed by Deepak Kohli, the spouse of the complainant of the FIR No.11/2020, PS Maurya Enclave, in which the present application has been filed as well as against his two sons. It was submitted on behalf of the applicant that there had been misbehavior and molestation of Swati Aggarwal by Deepak Kohli, spouse of the complainant of the FIR No.11/2020, PS Maurya Enclave and that the sons of Deepak Kohli being lawyers had been threatening the applicant and had been harassing him.

5. As submissions that were made on behalf of the applicant were to the effect that the wife of the applicant had been misbehaved with by the respondent no.2 herein, it was considered essential to peruse the

statement under Section 164 of the Cr.PC, 1973 of Swati Aggarwal, complainant of the FIR bearing No.10/2020, PS Maurya Enclave, the copy of which statement has been submitted by the State on the record dated 01.02.2020 as recorded by the learned MM-02, North-West District, Rohini Courts, Delhi.

6. Through the said statement, it was stated by Swati Aggarwal that her father-in-law suffered a brain stroke about half a year before and had been hospitalized and she used to come to the hospital and Deepak Kohli, (spouse of the complainant of the FIR No.11/2020, PS Maurya Enclave qua which the present application has been filed) used to reside on the 2nd floor of her house and used to follow her and used to make bad gestures and used to make dogs follow her despite knowledge that she was afraid of dogs and that 2/3 times he came to the bus stop and made an attempt for a conversation and that day itself, she had told Deepak Kohli that she would meet his wife in the evening to complain to her, to which, Deepak Kohli (spouse of the complainant of the FIR No.11/2020, PS Maurya Enclave) stated that he would get Swati Aggarwal defamed, as a consequence of which, she was threatened and about one and a half month before, her father-in-law had expired and thus she had ignored the misbehavior of Deepak Kohli, which misbehavior continued to increase and he used to pass comments on her and once when she was 9 months in the family way, Deepak Kohli had broken an AC pipe and hit on the face of her mother-in-law. The said complainant Swati Aggarwal further stated through the statement under Section 164 of the Cr.PC, 1973 ***that on 06.11.2019, when she had gone to the terrace as her husband***

got the water tank repaired on the terrace and at that time, Deepak Kohli had come there and had assaulted the plumber and then took the pipe from the plumber's hand and assaulted her husband and on seeing this, she shouted and seeing her, Deepak Kohli told that she was the cause of the entire problem and that he would make her dance in the lane, would take off her pants and threatened her with dire consequences for her and her daughters and also threatened that her husband would also be sent to jail and that his sons were lawyers and that she could do nothing to him. As per the statement under Section 164 of the Cr.PC, 1973 of Swati Aggarwal, her spouse i.e. the present petitioner had tried to save her and in the meantime Deepak Kohli (spouse of the complainant of the FIR No.11/2020, PS Maurya Enclave) got pushed and fell down and as a consequence thereof Swati Aggarwal's husband telephoned the police at No.100 and the police came and took all of them to the hospital for getting the MLCs prepared and that there Deepak Kohli and his two sons had also assaulted her husband but he was safe. She also stated that Deepak Kohli also used to threaten her that he would get her husband killed and would defame her and she was afraid of going out and was unable to look after her two children.

7. It was thus submitted by the applicant that he had been wholly falsely implicated in the FIR No.11/2020, PS Maurya Enclave, which had been filed by the complainant of the FIR bearing No.10/2020, PS Maurya Enclave.

8. On behalf of the State it was submitted that the allegations that had been made through the statement under Section 164 of the Cr.PC,

1973 of Swati Aggarwal dated 01.02.2020 related to the incidents prior to the date 06.11.2019 i.e. the date of the occurrence and that Deepak Kohli has since been enlarged on bail in FIR bearing No.10/2020, PS Maurya Enclave in as much as the offences alleged against him were all bailable. It was also submitted on behalf of the State whilst placing reliance on the MLC of the injured of the present case i.e. Deepak Kohli that he had sustained grievous hurt by the applicant herein having caught hold of him and thrown him on the floor on his back, as a consequence of which, his spine was injured. It was also submitted on behalf of the State that the applicant also assaulted Deepak Kohli on his left hand with the iron pipe, which was taken from the plumber and that the applicant had also put the Aari (axe) on the spouse of the complainant. It has been submitted on behalf of the State that the applicant was served with the notice under Section 41 (A) of the Cr.PC on 09.02.2020 to join the investigation, which was so joined by him on 10.02.2020 but that he did not cooperate in the investigation and did not reveal the facts regarding the whereabouts of the weapon of offence. The State has thus submitted that the custodial interrogation of the applicant was required for the recovery of the weapon of offence as also for the apprehension of Sheru and one more person who has not joined the investigation and were evading arrest.

9. On behalf of the complainant it was submitted that the MLC of Deepak Kohli, spouse of the respondent no.2 bearing no.15719 of Dr. Baba Saheb Ambedkar Hospital, Rohini, Delhi brought forth clearly that the Sr. Radiologist had opined that a fracture had been sustained

by Deepak Kohli and thus injuries sustained by him were grievous. It was also submitted on behalf of the complainant that the diagnosis conducted on 06.11.2019 at 6:42 pm at the Maharaja Agrasen Hospital brought forth clearly that as per the 'Principle -Diagnosis', it had been diagnosed to the effect '***Collapsed Fracture L1 Vertebrae with Fracture Body of 3rd & 4th Metacarpal Left Hand***' .

10. It was also submitted on behalf of the complainant that Deepak Kohli, the respondent no.2's spouse was admitted with a complaint of back pain, pain in the left hand, swelling in left hand and that even the data from Dr. Baba Saheb Ambedkar Hospital i.e. MLC No.746748 dated 06.11.2019 of 15 hrs, 18 minutes itself makes it apparent that Deepak Kohli had a swelling on the left hand with difficult movement of the limbs and tenderness on the back region and an abrasion on the right hand and as per the Discharge Summary of the Maharaja Agrasen Hospital dated 09.11.2019, Deepak Kohli had a swelling on the left hand, fracture on the 3rd & 4th metacarpal of left hand, collapsed fracture L1 vertebrae on left spine which brought forth the gravity of the offence and that coupled with the factum that two other co-accused in the instant case have yet to be apprehended, in the facts and circumstances of the case where the weapon of offence had not been recovered, the presence of the accused was necessary for the same as also for the identification of the two other co-accused Sheru and one more person.

11. Reliance was placed on behalf of the complainant on the verdict of the Hon'ble Supreme Court in ***Nasiruddin Vs. State (NCT of***

Delhi) and Ors. (2014) 13 SCC 579 with specific reference in para 12 of the said verdict, which reads to the effect:

“12. We are informed that none of the accused persons had disclosed the source from which the weapon and bullets were procured and that the Investigating Officer has pointed out that the offence under Section 201 would be charged if the weapon is not traced/recovered. Above facts would clearly indicate that this is not a fit case for granting anticipatory bail, especially when the investigation is not over and the weapon used in the offence is yet to be traced. The medical report refers to the gunshot injury on the body of the Appellant. FIR was also found promptly registered. The question as to whether the case will fall under Section 326 Indian Penal Code could be determined only after the investigation is completed. Learned Additional Sessions Judge, while granting anticipatory bail, opined that after having considered the medical report, the ingredients of Section under Section 326 Indian Penal Code have not been satisfied. We are of the view that it was too early for the learned Additional Sessions Judge to express any opinion merely looking at the medical report. Medical report positively indicates of gunshot injury, may be simple, and it is due to that reason that the police has added the offences under Section 307 Indian Penal Code as well as Section 25 of the Arms Act.”

to contend that in as much as the Aari i.e. the Axe had not been recovered from the applicant, at this stage, there is no ground for grant of anticipatory bail.

12. Reliance was also placed on behalf of the complainant on the verdict of this Court in **Sanjay Jain vs. State of NCT of Delhi** in Bail Appl. No.1752/2017 and in **Shubham Chawla Vs. The State** in Bail Appl. No.1549/2017 to contend to the effect that in view of the gravity

of allegations against the applicant, no anticipatory bail ought to be granted and that in as much as investigation in the matter has not been completed, it would be inappropriate to grant any anticipatory bail to the applicant in as much as the recovery of the weapon of the alleged offence is yet to be conducted.

13. On behalf of the applicant, it has been submitted that he has two children and a wife to look after and that the younger child has been admitted to the hospital and thus it was submitted that he be released on bail.

14. On behalf of the applicant, it is sought to be urged that he is a young man and no useful purpose would be served by continuation of his incarceration and that his personal liberty could not be infringed in the manner as it is sought to be infringed by the complainant/respondent no.2.

15. Reliance was also placed on behalf of the petitioner on the verdicts of the Hon'ble Supreme Court in *Dataram Singh Vs. State of Uttar Pradesh and Ors.* 2018 (1) ACR 741, in *Mayur Panabhai Shah vs. State of Gujarat* AIR 1983 SC 66 in *Sanjay Chandra Vs. CBI* AIR 2012 SC 830, in *Joginder Kumar VS. State of U.P. and Ors.* AIR 1994 SC 1349, on the verdict of this Court in *Prashant Kumar Singh vs. State (Govt. of NCT of Delhi)* in Bail Appl. No.2195/2017, in *Bhushan Lal Khanna vs. State (Govt. of NCT of Delhi)* in Bail Appl. No.2529/2017 to contend to the effect that where the accused has joined the investigation and fully cooperated with the Investigating Agency and is not likely to abscond, custodial interrogation should be avoided and anticipatory bail should be

granted and that arrest should be the last option and it should be restricted to those exceptional cases where arrest of the accused is imperative in the facts and circumstances of a case. Reliance was placed on behalf of the applicant on the verdict of the Hon'ble Supreme Court in ***Siddharam Satlingappa Mhetre VS. State of Maharashtra and Ors. AIR 2011 SC 312*** and the parameters laid down by the Hon'ble Supreme Court therein vide para 122 thereof were also relied upon, which read to the effect:

“122. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

iii. The possibility of the applicant to flee from justice;

iv. The possibility of the accused's likelihood to repeat similar or the other offences.

v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.

vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of Sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

16. It was also submitted on behalf of the applicant that the injuries sustained by the injured Deepak Kohli were not as grievous or even grave as sought to be made out on behalf of the State in as much as it was only the fingers of the injured Deepak Kohli i.e. 3rd & 4th metacarpal of his left hand that had been fractured and that as per the averments made in the FIR as also the statement under Section 164 of the Cr.PC, 1973 of Usha Kohli, Mr. Deepak Kohli, if he had been injured on his spine as stated by Usha Kohli in the FIR after the applicant allegedly threw him on the floor and he fell on his back and hurt his spine, he could not have got up and gone down to the room and called the PCR and it was thus submitted on behalf of the applicant that all allegations levelled against the applicant are wholly concocted. Reliance was placed on behalf of the applicant on the **Hospital Course** in the Discharge Summary of the Maharaja Agrasen Hospital dated 09.11.2019, which reads to the effect:

“The patient was admitted with above mentioned complaints. All relevant investigations were done. Above elbow slab given to left hand and dorsolumbar spine brace. Patient put on conservative management. Now patient is being discharged in satisfactory condition advise given & explained to patient.”

to contend to the effect that Deepak Kohli was discharged in a satisfactory condition on 09.11.2019 having been admitted on 06.11.2019.

17. The status report dated 13.03.2020 submitted by the State indicates that in relation to the FIR No.10/2020, PS Maurya Enclave lodged on the complaint of Swati Aggarwal, wife of the present applicant that there had been allegations of user of abusive language by Deepak Kohli, the spouse of the complainant Usha Kohli, complainant of FIR No.11/2020, PS Maurya Enclave and by his sons and having abused the applicant and of having beaten her husband and during investigation the statements of witnesses were recorded and that the said Deepak Kohli, spouse of the complainant of FIR No.11/2020, PS Maurya Enclave had been arrested and released on bail as the allegations were bailable in nature and that the role of the sons of Deepak Kohli was yet to be ascertained.

18. During the course of submissions that were made on behalf of the State, it was submitted that the applicant had not been cooperating in the investigation and had not disclosed as to where the weapon of offence i.e. Aari and the pipe had been placed and that the applicant's assistance was also required for disclosing the names of the other persons involved in the alleged commission of the offence as alleged

through the statement of the complainant Usha Kohli under Section 164 of the Cr.PC, 1973.

19. The statement of the complainant Usha Kohli under Section 164 of the Cr.PC, 1973 is indicated to have been recorded on 04.02.2020 wherein she has stated that on 06.11.2019 Swati had come to the 2nd floor of her house and that Swati Aggarwal (i.e. the complainant of FIR No.10/2020, PS Maurya Enclave) lives on the ground floor and she asked the complainant Usha Kohli that they wanted to get the tank cleaned and she, Usha Kohli told her that she could do so when her i.e. the complainant Usha Kohli's husband returned and she also made Swati Aggarwal talk to her husband and asked her to come later and that it was about 12:30 pm at that time and thereafter at about 1:45 pm, Mr. Amit Aggarwal, husband of Swati Aggarwal, the present applicant came with a plumber and two other persons, one of whom, was claimed to be Sheru and he, Amit Aggarwal asked her repeatedly to open the door and she told them to come after her husband came and that on his repeated request, she opened the door and at that time, the applicant hit her on her chest and pushed her aside and she fell down and all those four persons went up and thus she telephoned her husband who came in 5-7 minutes and he went up when she had gone down to put off the gas in the kitchen and heard a noise and then she went up and **saw that her husband had fallen down and he was bleeding from his neck** and at that time, the present applicant took a rod in her presence and hit on the left hand of her husband, as a consequence of which, it was fractured and then when she went up, at that time, the applicant had an Aari/ axe in his hand and called her

budiya (an old woman) and told her to go back and told her that he would finish the old man i.e. her husband saying that he was like a **mouse** and he would throw him down and at that time, the other persons were standing there and at that time, the police was called by her husband and the police came and all those four persons and her husband were taken by the police to the hospital and since then, her husband has been bed ridden.

20. On a consideration of the rival submissions that have been made on behalf of either side, it is essential to observe that the FIRs i.e. FIR No.10/2020, PS Maurya Enclave and FIR No.11/2020, PS Maurya Enclave in the instant case have been registered only on 10.01.2020 in relation to an incident on 06.11.2019. The FIR in the instant case i.e. FIR No.11/2020, PS Maurya Enclave and the cross FIR No.10/2020, PS Maurya Enclave lodged on the complaint of wife of the present applicant however bring forth that the incident was clearly reported on 06.11.2019 itself but that none of the persons injured in the incident had given any statement qua the incident on 06.11.2019 to the IO i.e. no statements were given by Amit Aggarwal, the present applicant nor by Deepak Kohli, the spouse of the complainant Usha Kohli nor by Umesh, son of Usha Kohli and it was only after the opinion on the nature of injuries sustained by the injured Deepak Kohli was opined as being grievous, that FIR No.11/2020, PS Maurya Enclave was got registered with the FIR No.10/2020, PS Maurya Enclave having been registered on the same date. The FIR No.10/2020, PS Maurya Enclave indicates that Amit Aggarwal, the present applicant and Deepak Kohli, the spouse of FIR No.11/2020, PS Maurya Enclave both stated on

06.11.2019 that they would give their written statement at the police station. Though the contention raised on behalf of the complainant was to the effect that the Aari and the pipe, the alleged weapon of offence had to be recovered and the names of the co-accused persons had to be ascertained from the applicant, the same can be done by the applicant joining the investigation as and when required by the Investigating Agency for which no custodial interrogation is required in view of the factum that the applicant has already during the course of investigation made a statement which had been produced before the Court to the effect that he was not aware of the whereabouts of the pipe returned by him to the plumber and was not aware of the whereabouts of the Aari and thus no useful purpose would be served by the arrest of the applicant. Reliance that has been placed on behalf of the complainant on the verdict of the Hon'ble Supreme Court in *Nasiruddin (supra)* to contend to the effect that in view of the weapon of offence having not been recovered, the investigation could not be hampered and it was essential for conducting of the proper investigation that custodial interrogation of the applicant would be required, it is essential to observe that in the instant case, the FIR has been registered on 10.01.2020 qua an incident of 06.11.2019 despite information having been given to the police on 06.11.2019 and despite the factum that the witnesses were available inclusive of the injured Deepak Kohli who along with his associates, his son Umesh did not choose to give any statement to the police on the date when he was medically examined soon after the incident when as per the MLC No.746748 dated 06.11.2019 of the Dr. Baba Saheb Ambedkar

Hospital, **was conscious and oriented** and in these circumstances in as much as the applicant has also stated during the course of enquiries conducted by the police that he could not get the pipe and aari removed, the facts relied upon on behalf of the complainant in *Nasiruddin (supra)* are wholly distinguishable from the facts in the instant case.

21. Reliance that has been placed on behalf of the complainant on the verdict of this Court in *Sanjay Jain vs. State of NCT of Delhi* in Bail Appl. No.1752/2017 and in *Shubham Chawla Vs. The State* in Bail Appl. No.1549/2017 is not in facts *pari materia* with the instant case in as much as the incident in the instant case as prima facie brought forth through the statement under Section 164 of the Cr.PC, 1973 of Usha Kohli dated 04.02.2020 indicates that it was on the spur of the moment and whereas the cases relied upon by the complainant in *Sanjay Jain (supra)* and *Shubham Chawla (supra)* relate to alleged intentional sexual assaults. The status report dated 20.02.2020 also indicates that during the course of the anticipatory bail proceedings before the Sessions Court, the parties were also referred to the mediation which is indicated to have not succeeded.

22. Furthermore, It is essential to observe that each case has to be determined on its own merit as laid down by this Court in *Rohit Chauhan vs. State of NCT of Delhi 200 (2013) DLT 380* vide para 17 thereof, which reads to the effect:

“17. It is a settled position of law, that every case is to be dealt based on its individual factual matrix and no set principle or straight jacket formula can be applied specifically while dealing with bail matters where only a

prima facie view can be taken to appreciate the facts in a given case.”

23. Furthermore, it is essential to observe as regards the alleged sequence of events as set forth in the FIR No.11/2020, PS Maurya Enclave, the applicant herein had caught hold of the husband of the complainant i.e. of Deepak Kohli and threw him on the floor and he fell down on his back and hurt his spine, which are the injuries that Deepak Kohli is stated to have sustained by way of collapse fracture of L1 Vertebrae, whereas the sequence of events however as set forth through the statement under Section 164 of the Cr.PC, 1973 of the complainant Usha Kohli dated 04.02.2020 rather states that at the time of the incident when she had gone down to put off the gas in kitchen, she heard a noise and she went upstairs and **her husband was lying fallen** and bleeding from his neck, at which time, the applicant allegedly assaulted her husband with a rod on his left hand and he sustained fracture and that the applicant also stated that he would throw down Deepak Kohli. Though presently, all these aspects would undoubtedly be considered during the course of trial, the variances brought forth through the averments in the FIR, the statement under Section 164 of the Cr.PC, 1973 of the complainant coupled with the factum that the statement was not given by the injured nor by his son on the date of the incident, are all aspects which though can only be gauged at the anvil of trial, cannot be ignored presently.

24. In the instant case where the FIR has been registered with much delay, where the spouse of the complainant and the applicant herein in relation to the incident that took place did not choose to give their

statements to the IO on the date of the incident coupled with the attempts for settlement having been made also with the factum that Deepak Kohli, spouse of the present complainant herein against whom as per the statement under Section 164 of the Cr.PC, 1973 of Swati Aggarwal, there are prima facie gross allegations of misbehavior and molestation on the date 06.11.2019 itself with he having been granted bail in view of the FIR having been registered qua offences which are bailable, it is considered appropriate to permit the applicant to be released on anticipatory bail in the event of arrest on filing a bail bond of Rs.1 lakh with two sureties of the like amount to the satisfaction of the learned trial Court with directions that he shall not leave the city, shall make no contact whatsoever with the complainant of the FIR No.11/2020, PS Maurya Enclave and her family members and shall not intimidate them in any manner with further conditions that the applicant is directed to join the investigation of the case as and when required by the Investigating Agency.

ANU MALHOTRA, J.

MARCH 18TH, 2020/vm