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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ BAIL APPLN. 689/2020
MACK WATSON & ANR Petitioners
Through Mr.A.K.Mishra, Adv.
versus
THE STATE Respondent
Through Mr.Hirein Sharma, APP for State with
ASI Braj Prakash, PS Jaitpur

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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11.03.2020

Crl. M.A.5231/2020 (for exemption)

Allowed, subject to all just exceptions.

Application is disposed of.

BAIL APPLN. 689/2020

1. Vide the present application, petitioners/applicants seek anticipatory bail in the event of their arrest in case FIR No.59/2020 for offences punishable under Sections 323/354/452/34 IPC registered at Police Station Jaitpur, Delhi.
2. Case of prosecution is that on 17.2.2020 at about 10:00 am, petitioner No.1, sister-in-law Arzoo, her husband-Kamrul Barki, his son-Arman, Sonia-petitioner No.2 (wife of petitioner No.1) and her brother along with few more persons trespassed by entering complainant's house. Petitioner No.1 threatened complainant that if she does not make a statement before Court, for vacating the house, then he would make her and her family members' lives miserable. When complainant protested against them, all the accused persons started beating complainant, her husband-Dilawar Khan and her mother-in-law, Chinta. Out of accused persons, two stood at the gate and

rest of them came inside. Petitioner No.1 and Kamrul Barki had assaulted complainant and pushed her on bed. When she raised hue and cry, above-mentioned persons ran away. Thereafter, complainant's husband dialed 100 number, a PCR reached at spot and took them to hospital. On the complaint, present FIR was registered against petitioners.

3. It is not in dispute that petitioner No. 1 had purchased property in question bearing no. 262/7 Ekta Vihar, Mithapur, Delhi from Kamrul Barki whereas complainant, her husband, her mother-in-law, Hamid Barki, Kamrul Barki and his wife Arzoo were permitted to reside on the ground floor as permissive user. Petitioner's father, namely John Watson, was residing on first and second floor of the above-said house.

4. Petitioner No.1 requested the above-named persons to vacate property and hand over possession of their respective portions but they kept on gaining time on one pretext or the other. Therefore, petitioner No.1 issued a legal notice to complainant (Afsana Khan), Dilawar Khan, Chinta, Hamid Barki, Kamrul Barki and Arzoo Barki thereby terminating their permissive right. Despite that, the above-named persons neither vacated suit property nor sent any reply. Thereafter, petitioner No. 1 filed a civil suit for mandatory injunction against complainant as well as above-named persons.

5. Learned Civil Judge, after hearing arguments, disposed of application under Order XXXIX Rule 1 & 2 and by virtue of this, complainant and other defendants were restrained from creating third party interest in the suit property vide order dated 4.1.2018.

6. It is pertinent to mention here that during the course of proceedings, defendant Nos. 4, 5 and 6 (Hamid Barki, Kamrul Barki and Arzoo, respectively) of the said suit had made statement that they have vacated suit

property and handed over key to petitioner No.1. However, complainant, her husband and her mother-in-law kept on defending the case

7. Keeping in view the facts and circumstances of the case, *prima facie*, it seems that present case between the parties is civil in nature. Therefore, without commenting on merits of case, this Court is of the considered view that the present case is fit for anticipatory bail.

8. Accordingly, SHO/ Arresting Officer/IO concerned, is hereby directed that in the event of arrest, petitioners/ applicants shall be released on bail on the following terms and conditions:-

(i) Petitioners shall furnish personal bond in the sum of ₹15,000/- with one surety each of the like amount subject to the satisfaction of Arresting Officer/SHO/IO concerned;

(ii) Petitioners shall cooperate with the investigation and make themselves available for interrogation by police officer, as and when required;

9. In case of default of aforementioned conditions, the State is at liberty to take appropriate recourse in accordance with law.

10. Before parting with the order, it is relevant to mention that nothing contained in this order shall be construed as an expression on the merits of the case.

11. Application stands allowed and disposed of.

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

13. Copy of this order be transmitted to SHO/IO concerned for necessary compliance.

SURESH KUMAR KAIT, J

MARCH 11, 2020/rk