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

+ **BAIL APPLN. 1140/2020**

VINOD KUMAR SHARMA

..... Petitioner

Represented by: Mr.Jai Sahai Endlaw, Advocate with
Mr.Subhoday Banerjee, Advocate

versus

STATE

..... Respondent

Represented by: Mr.Hiren Sharma, APP for the State
with Additional SHO, P.S.Subzi
Mandi

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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29.06.2020

1. The hearing has been conducted through Video Conferencing.
2. By this petition, the petitioner seeks anticipatory bail in case FIR No. 54/2020 under Sections 323/341/34 IPC registered at P.S.Subzi Mandi, wherein Sections 307 IPC and 394 IPC were added later on.
3. Case of the prosecution based on the statement of Surender Singh @ Geeta is that one Onkar Nath Sharma approached the petitioner in respect of property House No.2531, Punjabi Basti, Subzi Mandi, Delhi as the petitioner was property broker working under the name of Prince Properties. Onkar Nath Sharma had agreed with the petitioner that the petitioner would construct the property upto the fourth floor other than ground floor which was to be used as a parking space. After construction of two and a half floors, the petitioner stopped the construction work and consequently, dispute arose between Onkar Nath Sharma and the petitioner. In the month of December, 2019, it was verbally decided in the office of the complainant i.e. Surender Singh @ Geeta, owner of 'Sardar Properties' that Onkar Nath Sharma shall pay a sum of ₹8 lakhs to the petitioner as the petitioner had

constructed two and a half floors. On 26th February, 2020, Onkar Nath Sharma along with his relatives Amrit Lal and Suman Tyagi and the complainant Surender Singh @ Geeta reached the office of the petitioner and handed over to the petitioner ₹4 lakhs in cash and a demand draft of ₹4 lakhs as agreed between the parties already. After the amount was handed over, an altercation took place between Onkar Nath Sharma and the petitioner as the petitioner asked Onkar Nath Sharma as to ‘who will pay the interest’. After hearing this, Onkar Nath Sharma and Suman Tyagi stated that as per the settlement, only ₹8 lakhs were to be paid and there was no discussion on the interest.

4. Thereafter, the complainant stated that in case, the petitioner did not want to settle the matter, he should return the money. It is the case of the complainant that the petitioner and his son who was also present there became angry and started beating the complainant with some spike like weapon and stabbed him multiple times. When Onkar Nath Sharma, Amrit Lal and Suman Tyagi came to save him, they were also assaulted. Based on the statement and the MLCs which opined nature of injuries to be simple and by blunt object, the above-noted FIR was registered. During the course of investigation, CCTV footage was recovered. However, the findings of the CCTV footage are a bone of contention between the petitioner and the investigating agency.

5. Without going into who scuffled first, it is relevant to note that even on the facts as alleged by the complainant, offence punishable under Section 394 IPC is not made out. It is the admitted case of the complainant and his three associates who went with him, that Onkar Nath Sharma took a sum of ₹8 lakhs and handed over the same to the petitioner who constructed the two and a half floors on the property and only after the said amount of ₹8 lakhs i.e. ₹4 lakhs by way of cash and ₹4 lakhs by way of demand draft was

handed over to the petitioner that the petitioner enquired about the interest amount when scuffle took place between the parties. It is not the case of the complainant that the sum of ₹8 lakhs was not due towards the petitioner nor that the money was not brought for the petitioner nor that the petitioner snatched/extorted or committed theft of the said money.

6. As regards the invocation of Section 307 IPC is concerned, though the MLC shows multiple marks which the complainant claims to be by the spike like pointed object, however, as noted above, the other injuries are only abrasions and bruises and as regards the spike injuries are also concerned, no depth of these injuries has been given to render an opinion that they were dangerous or likely to cause death. The injury on the eyebrow which 0.5cm x 0.5cm is a lacerated wound and not by a sharp weapon. Admittedly, the complainant was not admitted in the hospital and was discharged by giving treatment in the OPD.

7. Considering the facts as noted above, this Court deems it fit to grant anticipatory bail to the petitioner. It is therefore directed that in the event of arrest, the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with one surety bond of the like amount subject to the satisfaction of the Arresting Officer/SHO concerned.

8. Petition is disposed of.

9. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

JUNE 29, 2020
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