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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1897/2020 and CrI.M.A. No. 11735/2020**

SONU

..... Petitioner

Through: Mr.Ashwin Kumar Nair, Advocate

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Ashok Kumar Garg , APP for
State with SI Dheer Singh

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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27.08.2020

(Hearing through Video Conferencing)

The applicant vide the present application seeks the grant of interim bail in relation to FIR No.310/2019, PS Farsh Bazar under Sections 394/397/34 of the Indian Penal Code, 1860. Through the averments made in the application it had been submitted that the mother of the applicant had tested positive with COVID 19 on 09.07.2020 and was under self isolation and there was no one else to take care of her.

Vide order dated 27.7.2020 the status report in relation to the ailment of the mother of the applicant as well as the number of family members available at her residence to look after her coupled with the aspect of previous adverse antecedents, if any, against the applicant was called which has been submitted by the State. The State thereafter submitted a status report which indicates that the mother of

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the applicant lives alone and was tested corona positive on 8.7.2020 but she has recovered and there is a negative report received on 20.7.2020 and that the applicant's brother also lives in a rented accommodation adjacent to Bhola Nath Nagar, at Bihari Colony. As regards the aspect of the ailment of the mother of the applicant, in view of the factum that she has recovered from COVID 19, the same is not a ground for grant of bail as sought by the applicant.

As regards the merits of the application qua which submissions have been made on behalf of the applicant that the applicant has been falsely implicated in the instant case with the submissions made on behalf of the applicant also that though as per the FIR there were two persons stated to have been injured named Bhupinder and Deepak, the statement of Deepak was not filed before the Trial Court and it has been submitted on behalf of the applicant that this factum was also indicated in the order of the learned Trial Court dated 30.11.2019 when the matter was fixed for arguments on charge that it was informed by the State that the statement of the injured was not on the file and at request the Investigating Officer was summoned for the next date of hearing i.e. for arguments on charge on 4.3.2020, in relation to that aspect. The State has placed on record a status report dated 10.8.2020 submitting to the effect that on 5.3.2020 SI Kapil, the Investigating Officer of the case has recorded the statement of witness Deepak through supplementary charge sheet and file the same before the learned Trial Court.

A submission has been made on behalf of the applicant that he has been falsely implicated in the instant case and that he works as a

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Home Guards Delhi, with Ministry of Home Affairs and there is no scope of his having committed any such offence of snatching away any phones from the complainant with whom he was previously acquainted with. Inter alia on behalf of the applicant it has been submitted that the complainant was known to the applicant and has falsely implicated him in the instant case. It has also been submitted on behalf of the applicant that as regards the alleged involvement of the applicant in case FIR No. 309/2019, Police Station Farsh Bazar, in view of the absence of any legally admissible evidence against him he has already been discharged.

On behalf of the applicant it has further been submitted that in relation to the instant case, i.e, FIR No. 310/2019, Police Station Farsh Bazar there has been no TIP conducted and that is an aspect which brought forth the falsity of the prosecution version.

On behalf of the State, the prayers made on behalf of the applicant have been vehemently opposed inter alia submitting to the effect that taking into account the averments made in the FIR itself which categorically named the application, there was no requirement of any TIP being conducted, which is apparently correct. As regards the contentions raised on behalf of the applicant that the statement of the co-injured named Deepak, had not been recorded even till the filing of the first charge sheet and stated to have been recorded only on 5.3.2020, the same is an aspect which the State would have to explain during the course of the trial. However, it cannot be overlooked that as per the FIR the date of the incident is 25.8.2019 and the MLC in relation to both the injured persons named Deepak

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whose statement was recorded only on 5.3.2020 and the MLC of Bhupinder are dated 25.8.2019 i.e. the date of the incident itself. The said MLCs show the incised wounds on the person of Deepak from the left side of the abdomen and show incised wounds and the stabbed wounds on the chest of Bhupinder. Furthermore, the applicant is stated to have been the pillion rider of the vehicle driven by the co-accused and is alleged to have attempted to snatch the mobile from Bhupinder and when it was not given he had pulled out a knife and had assaulted him and also assaulted Deepak. The said Deepak as per his statement stated to have remained hospitalized for a period of four to five days.

On a consideration of the submissions that have been made on behalf of either side and taking into account the MLCs of the injured persons and the nature of injuries allegedly inflicted on them with the knife of the applicant allegedly, there is no ground whatsoever for grant of bail.

The Bail Appln. 1897/2020 and CrI.M.A. No. 11735/2020 are thus declined.

ANU MALHOTRA, J

AUGUST 27, 2020/SV

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