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

% **Date of Decision: 05.02.2020**

+ **BAIL APPLN. 2077/2019**

Mukhtiar Ansari

..... Petitioner

Through: Mr. Satish Kumar, Advocate
along with petitioner in
person.

versus

THE STATE OF DELHI

..... Respondent

Through: Mr. Tarang Srivastava, APP
for State alongwith SI Rohit
Kumar, PS Wazirabad.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J (ORAL)

1. Vide this order, I shall dispose of an anticipatory bail application filed on behalf of the petitioner Mukhtiar Ansari under section 438 Cr.P.C. in FIR No. 200/2019 u/s. 452/323/34 IPC, P.S. Wazirabad.

2. Ld. Counsel for the petitioner has prayed for anticipatory bail on the ground that petitioner is innocent and has been falsely implicated in the present FIR.

3. It is submitted that the present FIR bearing no. 0200/2019, was lodged on the complaint of one Sh Mujibul Haque S/o Sh. Nizammuddin, under section 452/323/34 IPC. The complainant has alleged that the petitioner had entered into their house at first floor and hit and injured his daughter with scissor and he was also injured by the petitioner.

4. It is submitted that the petitioner is the brother-in-law of the complainant. He is the owner and in possession of a built up double storey house bearing no.339 Gali no 13, Shivkunj Burari, Delhi. The property was purchased and built up by the father of petitioner late Sh. Amruddin and petitioner is residing at ground floor in the said house.

5. It is submitted that on 21.07.2019 at about 10 A.M. the petitioner was asleep in his room in the said property. The complainant, however, conspired against the petitioner and came to him armed with weapons. The wife of the complainant, namely Rubaida Khatoon was wielding a pipe, the complainant was having a knife and her daughter, namely Shajda was also having a knife. One Munir Ansari had a lathi. The complainant and his family

members dragged the petitioner out of his room. They attacked the petitioner with knives. The wife of the complainant tried to stab the petitioner, who saved himself by his right hand, consequently he received knife injuries in his right hand and his left hand finger. The wife of the complainant caused knife injuries on his temple. Munir gave a lathi blow on his head with the intention to kill him. The daughter of the complainant was having a knife and she tried to stab the petitioner due to which he had fallen down and became unconscious. The wife of the complainant had given several blows with the pipe. The complainant along with his family members had also tried to put him in their car bearing registration no. DL3CBL6407 for taking him to some unknown place in order to kill him.

6. It is submitted that hearing the commotion, the neighbourers reached at the spot and saved the petitioner. Seeing the neighbourers, the complainant and his family members went away.

7. It is submitted that the sister-in-law of the petitioner got him admitted in the Trauma Centre, where he was medically examined. The doctors of the Trauma Centre gave him medical aid. After

regaining the consciousness, the petitioner called the PCR but neither the police from PCR nor the local police came on the spot. The petitioner went to the police station, Wazirabad and requested the police officer to register an FIR against the complainant and his family members, who were already present there and on their instance the police refused to record FIR against them. Instead the police official registered the present FIR against the petitioner.

8. The petitioner preferred an anticipatory bail application which was dismissed by Ld. ASJ-2 (Central), Tis Hazari Courts, Delhi vide order dated 29.07.2019.

9. It is submitted that the Ld. Judge failed to appreciate that the police official did not take any legal action against the complainant and his family members despite the fact that they had tried to kill him and he was also under medical treatment in the Trauma Centre. It is submitted that the petitioner is ready to join the investigation as and when required and in these circumstances, it is prayed that he be released on anticipatory bail in the event of his arrest.

10. The anticipatory bail is opposed by the Ld. APP for the State on the ground that the allegations against the petitioner are serious

in nature. Petitioner is not joining the investigation. The investigation is still in progress and at initial stage. The petitioner is not co-operating with the investigating officer. Custodial interrogation of the petitioner is required for the recovery of alleged scissor. He has, therefore prayed for dismissal of the bail application.

11. I have considered the rival submissions. Perusal of the record reveals that on 21.07.2019, an information vide DD No. 30A regarding quarrel was received at PS Wazirabad. During inquiry, two MLCs bearing No. 9151/19 of Mujibul Haque and bearing no. 9152/19 of Ms. Sajda Rubil respectively were received from Trauma Centre, Civil Line, Delhi mentioning therein alleged history of assault by Scissor and nature of injury 'U/O Blunt'. Thereafter, present FIR was registered on the statement of Mujibul Haque. In his statement, complainant Mujibul Haque has stated that his wife Rubaiga Khatoon had purchased the house in question bearing H.No. 339, Gali No. 13, Shiv Kunj, Shani Bazar Road, Jharoda, Burari, Delhi from her father. The complainant along with his family resides at the first floor of the said property and the petitioner

Mukhtiar Ansari has possession of two rooms on the ground floor of the said property. On 21.07.2019, petitioner Mukhtiar Ansari had tried to raise construction/renovation in the area in his possession. However, Rubaida Khatoon and her daughter Sajda Rubil had come downstairs and stopped present petitioner from doing any construction/renovation work. Petitioner and his nephew Abhivakas abused both of them and also started quarreling. After that complainant (Mujibul Haque) came at the spot and he along with his wife and daughter went back to the first floor of the property. It is alleged that thereafter petitioner came up to the first floor and attacked Sajda Rubil and Mujibul Haque with scissor and ran away after injuring both of them. The injury inflicted by the petitioner has disfigured the face of the complainant.

12. In view of the above facts appearing on record and also keeping in mind the fact that petitioner has caused injuries to complainant Mujibul Haque and his daughter Sajda Rubil with the help of scissor and this injury has disfigured the face of the complainant Mujibul Haque and weapon of offence is yet to be recovered, no grounds for anticipatory bail are made out. The

anticipatory bail application is, therefore, dismissed.

BRIJESH SETHI, J

FEBRUARY 05, 2020

Amit