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

+ **BAIL APPLN. 2599/2019**

RAKESH KUMAR & ANR. Petitioners

Through: Mr. Varinder Singh Dhiman and
Mr. Anuj Rajpal Advs.

versus

STATE Respondent

Through: Mr. Amit Chadha, APP for State with
Insp. Surender Singh, DIU/North
West
Adv. for complainant (appearance not
given)

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

30.01.2020

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1. Present petition is filed under Section 438 read with Section 482 of Cr.P.C. on behalf of the petitioners for grant of anticipatory bail in the event of arrest in case arising out of FIR No. 350/2019 dated 02.10.2019 registered at Police Station – Subhash Place, Delhi.

2. The petitioners are government servants as they are presently serving in Delhi Police. On 25.08.2013, Prachi Srivastava (wife of the complainant in FIR no. 350/2019) quarrelled with complainant, namely Rajnish Srivastava in the afternoon and called PCR which came to the house of complainant. Pursuant to this, Petitioners responding to the PCR Call received at Police Station Netaji Subhash Place and reached the residence of complainant where Petitioner No. 1 was informed by wife of the

complainant that there was no fight between her and complainant. To this effect, Petitioner No. 1 filed a report of return entry vide DD No. 17 dated 25.08.2013 vide which directions were given to the complainant and his wife to maintain peace amongst themselves at home and not to indulge into such activities in future.

3. The complainant however alleges that he was called to the police station by the petitioners and was made to sit there for two hours. The complainant further alleges that during those two hours when the complainant called Petitioner No. 1 to seek his permission to go home for lunch, Petitioner No. 1 told him that he would arrange lunch for complainant in lock-up. Further, it is alleged that while the complainant stayed in police station against his wish, Petitioner No. 2 asked complainant twice to illegally gratify him by saying "*Sahaab ki sewa*". The complainant informed this issue to the SHO concerned. However, no action was taken. Thereafter, an application under Section 156(3) Cr.PC along with an application under Section 200 Cr.P.C. for initiating criminal proceedings against eight persons including the present petitioners under Sections 191/192/193/196/197/340/341/342/346/347 and 383/384 read with Section 511/120B IPC was filed by the complainant before the Court of Ld. CMM, North-West, Rohini Courts, Delhi. The said Court, vide impugned Order dated 27.04.2019 allowed the prayer of complainant and directed to register FIR under the abovementioned Sections against all the accused persons.

4. Learned counsel appearing on behalf of the petitioner submits that from a bare reading of complaint, no cognizable offence is disclosed against any of the accused persons, thus, learned CMM has not applied its judicial

mind and the impugned order do not mention any of the offences disclosed against the petitioners.

5. Being aggrieved, petitioners filed Criminal Revision Petitions No. 102/2019 and 103/2019 against the said impugned order dated 27.04.2019 stating that compliance of Section 140 Delhi Police Act has not been done and the complaint was filed belatedly i.e. after lapse of almost four years from the date of incident. Further argued that period of limitation prescribed under Section 468 Cr.P.C. has expired even prior to filing of the complaint. Therefore, the court should not have taken cognizance of the same. However, said revision petitions were dismissed vide common order dated 28.09.2019 with detailed observations and directions for registration of FIR against the present petitioners only under Sections 342 and 384 IPC.

6. Learned counsel further submits that there is no question of tampering with the evidence or influencing the witnesses as the case of the complainant is completely based upon the documents already on record with the judicial file. Besides, the Petitioners undertake unconditionally not to contact the said complainant in this case.

7. Learned counsel appearing on behalf of the complainant submits that the accused persons not only illegally detained the complainant once but second time also, and if they are released on bail, they will indulge in same or similar illegal activities again. Therefore, the present application deserves to be dismissed.

8. It is not in dispute that the alleged incident is dated 25.08.2013 and the complainant filed the complaint after four years of the said incident, wherein the learned trial Court issued directions to register the FIR against

the petitioners.

9. In view of the above, the SHO/ Arresting Officer/IO concerned, is hereby directed that in the event of arrest, petitioners shall be released on bail on their furnishing personal bond in the sum of ₹25,000/- each with one surety each in the like amount subject to the satisfaction of Arresting Officer/SHO/IO concerned.

10. Application stands disposed of.

Dasti.

SURESH KUMAR KAIT, J

JANUARY 30, 2020

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