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IN THE HIGH COURT OF DELHI AT NEW DELHI

Order reserved on: 20.04.2022

Order delivered on: 21.04.2022

+ BAIL APPLN. 774/2022

ALI QUAZIM

..... Petitioner

Through: Mr.Ramesh Gupta, Sr. Advocate with
Mr.Alok Bhachawat, Advocate.

versus

STATE NCT OF DELHI

..... Respondent

Through: Ms.Rajni Gupta, APP for the State
with SI Satyam Pandey, P.S.: Lodhi
Colony.

Mr.Kamal J.S. Manh, Advocate for
complainant.

+ BAIL APPLN. 914/2022

SALMAN MEHDI

..... Petitioner

Through: Mr.Ramesh Gupta, Sr. Advocate with
Mr.Alok Bhachawat, Mr.Shailendra
Singh and Mr.Ishaan Jain, Advocates.

versus

STATE NCT OF DELHI

..... Respondent

Through: Ms.Rajni Gupta, APP for the State
with SI Satyam Pandey, P.S.: Lodhi
Colony.

Mr.Kamal J.S. Manh, Advocate for
complainant.



CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

ANOOP KUMAR MENDIRATTA, J.

1. These are two bail applications, both under Section 438 of Cr.PC filed on behalf of the petitioners seeking anticipatory bail in FIR No.68/2022 registered under Sections 392/448/506/34 of IPC at Police Station Lodhi Colony.

2. In brief, as per the case of the Prosecution, complainant Zahrul Hasan filed a complaint on 14.02.2022 at Police Station Lodhi Colony, wherein he alleged that on 12.02.2022 while he was in Police Station Lodhi Colony, accused namely (i) Mohammad Asgar @ Pappu, (ii) Tahseen Mohammad, (iii) Salman Mehendi (petitioner in Bail Application No.914/2022, (iv) Akhtar Abbas and (v) Ali Quazim (petitioner in Bail Application No. 774/2022) and their 2-3 friends entered in the Rajdhani Nursery forcefully. Further, they said to nursery staff that local police is with them and they must vacate the nursery premises immediately. At aforesaid time of incident, one of his nursery staff namely Aman Saxena was present.

3. It is further the case of the Prosecution that Mohammad Asgar took out a pistol, Akhtar Abbas took out a knife, Salman Mehendi was carrying a



pistol and intimidated the nursery staff. Mohammad Asgar and Akhtar Abbas went behind the cash counter of nursery and took documents of nursery related with High Court, bill book of nursery, voucher pad and other articles. Complainant also stated that he has some CCTV footage recording and also stated that he has filed a complaint on 13.02.2022 to the Commissioner of Police through mail.

Accordingly an FIR No.68/2022 dated 15.02.2022 under Sections 392/448/506/34 of IPC was registered at Police Station Lodhi Colony.

4. Learned counsel for the petitioners/accused submits that the dispute is related to the management of a Wakf property and orders already stood passed in favour of the petitioners. It is also contended that the FIR was lodged after a gap of about three days. It is also vehemently contended that FIR has been concocted and the allegations in the statement of Aman Saxena allegedly recorded on 16.02.2022 regarding pointing of pistol by accused Salman Mehendi were missing in the initial complaint. Reference is also made to the earlier status reports filed during the course of bail applications of other co-accused. It is urged that since there was previous enmity between the parties regarding the management and the dispute is as to handing over of possession, allegations have been concocted as a counter to civil dispute.



Reliance is also placed upon *Sushila Aggarwal and Ors. Vs. State (NCT of Delhi) and Ors.* passed in Special Leave Petition (Criminal) Nos.7281-7282/2017, decided on 29.01.2020 wherein reference has also been made to *Gurbaksh Singh Sibbia and Ors. Vs. State of Punjab*, 1980 (2) SCC 565.

5. On the other hand, the applications have been vehemently opposed by the learned APP for the State. Learned APP submits that interim protection had been granted to accused Ali Quazim vide order dated 08.03.2022 passed by Hon'ble Mr. Justice Rajnish Bhatnagar, considering the role of the applicant but it is submitted that interim protection was declined by this Court considering the fact that recovery of pistol had to be made from accused/applicant Salman Mehandi.

4. I have heard the parties at length and given considered thought to the contentions raised. There is no dispute to the fact that there is a litigation between both the parties as to the management of Wakf property and some orders have been passed in favour of the accused party regarding handing over of the management. However, it has been pointed out by the learned APP for the State that period of 30 days for handing over of the management had still not expired on 12.02.2022 and further an appeal has been preferred in which the orders have been stayed. The fact cannot be lost sight of, as



pointed out by the learned APP for the State, that since the complainant was in Police Station on 12.02.2022 itself, the e-mail had been forwarded to the Commissioner of Police regarding the entire incident on which the FIR appears to have been finally recorded on 15.02.2022 on the basis of a written complaint submitted on 14.02.2022 at Police Station Lodhi Colony. The apparent deviation in the role ascribed to Salman Mehandi in FIR and the statement of Aman Saxena who was present at the spot can be appropriately looked into during the course of investigation. It cannot be ignored that Salman Mehandi also appears to be involved in other FIRs. The list of articles which are alleged to have been removed is also stated to have been provided in response to notice under Section 91 of Cr.PC.

5. Considering the fact that petitioner Ali Quazim has already joined the investigation pursuant to the interim protection granted by Hon'ble Mr. Justice Rajnish Bhatnagar vide order dated 08.03.2022 and his role, no purpose shall be served by denying the benefit of anticipatory bail to petitioner Ali Quazim, at this stage. Accordingly, in the event of arrest, petitioner Ali Quazim be released on bail, subject to his furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with one surety in the like amount to the satisfaction of the Investigating Officer/SHO



concerned. Further, the petitioner Ali Quazim is directed to join the investigation, as and when directed. The Bail Application No.774/2022 is accordingly disposed of.

However, considering the role ascribed to accused Salman Mehandi and the fact that recovery of pistol is to be effected, I am not inclined to release him on anticipatory bail. The Bail Application No.914/2022 is accordingly dismissed.

Nothing stated hereinabove shall tantamount to expression of opinion on merits.

The applications are accordingly disposed of.

(ANOOP KUMAR MENDIRATTA)
JUDGE

April 21, 2022/A