



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

**Judgment reserved on: 03.09.2020**

**Date of decision: 04.07.2022**

+ BAIL APPLN. 2170/2020

CHANDERPATI

..... Petitioner

Through: Mr. Rajiv Khosla, Advocate.

Versus

STATE

.... Respondent

Through: Mr. Kewal Singh Ahuja, APP for  
State with SI Surinder, PS Begum Pur.

+ BAIL APPLN. 2424/2020

KARAMVIR

..... Petitioner

Through: Mr. Rajiv Khosla, Advocate.

Versus

STATE

.... Respondent

Through: Mr. Kewal Singh Ahuja, APP for  
State with SI Surinder, PS Begum Pur.

AND

+ BAIL APPLN. 2487/2020

JITENDER @ DOLA

..... Petitioner

Through: Mr. Rajiv Khosla, Advocate.

Versus

STATE

.... Respondent

Through: Mr. Kewal Singh Ahuja, APP for  
State with SI Surinder, PS Begum Pur.



**CORAM:**  
**HON'BLE MS. JUSTICE ANU MALHOTRA**

**JUDGMENT**

**ANU MALHOTRA, J**

1. The BAIL APPLN. 2170/2020, BAIL APPLN. 2424/2020 & BAIL APPLN. 2487/2020 have been taken up together, in as much as, all the three applicants of the said applications are arrayed as accused in FIR No.140/2020, PS Begum Pur under Sections 186/188/332/353/506/34 of the Indian Penal Code, 1860 registered on 13.05.2020 and all the three applicants seek the grant of anticipatory bail in relation thereto, submitting to the effect that they have been falsely implicated in the case.

2. Qua applicant named Chanderpati, vide order dated 14.08.2020 in BAIL APPLN. 2170/2020, it has been directed that she be not arrested subject to conditions that she would keep her mobile phone on at all times; would not leave the city, would not make any contact with the complainant and the prosecution witnesses, would not commit any offence whatsoever and would drop a PIN on the Google map so that her location was available to the Investigating Officer at all times. Likewise, the applicant of BAIL APPLN. 2487/2020 namely Jitender @ Dola vide order dated 03.09.2020, has been granted protection from arrest subject to the same terms and conditions. There is nothing on the record put forth by the State to indicate that there has been any violation of the terms and conditions imposed on the applicants Chanderpati (the applicant of Bail Appln.



No. 2170/2020) and Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020) vide orders dated 14.8.2020 and 03.09.2020.

3. The applicant of BAIL APPLN. 2424/2020 namely Karamvir, however, has not been granted any interim protection. This is so, in as much as, BAIL APPLN. 2424/2020 filed by the applicant thereof, Karamvir was the second application under Section 438 of the Cr.P.C., 1973 seeking the grant of anticipatory bail, the previous application of the said applicant i.e. Bail Appl. No.1298/2020 vide order dated 29.06.2020 having been declined without the grant of any such protection, as prayed.

4. Vide order dated 29.06.2020 in Bail Appl. No.1298/2020, it had been observed to the effect:-

***“In terms of the order dated 22.06.2020, the status report has been submitted by the State. As per the said status report, all complaints that have been made by the accused persons are after registration of the FIR and the FIR in the instant case is dated 13.05.2020. It has also been submitted through the said status report that a complaint was made by one Mr. Suresh Kumar, s/o Shri Bhagwan on 16.05.2020 stating that he purchased a plot bearing no.50, 400 sq. yds. out of Khasra No.68/10, 68/11, 69/15, Rajeev Nagar Ext., Delhi on 12.05.2020 from Mr. Jai Kanwar and that the documents were executed one day before the registration of the case in order to move false complaints to mount pressure on the police and take benefit in the case. As regards the aspect of the documentation, the State submits that they do not relate to the instant FIR and relate to the Civil Suit titled as Suresh Kumar Vs. Pradeep @ Lambu @ Khalifa & Anr. in CS No.765/2020 which is pending***



*before the Court of the Additional District & Sessions Judge as indicated vide order dated 20.05.2020.*

*Learned counsel for the applicant has inter alia placed reliance on a photograph placed on the record at page 37 of the petition stating that the same is of the Investigating Officer of the case who made a video recording of the entire incident. The Investigating Officer of the case is present and submits that at page 37 is his photograph but states that he was not making any video recording and was only attending to a call.*

*In the circumstances, on a consideration of the status report and the FIR in question which indicates that though the applicant has joined the investigation, he has not cooperated in the same and that the disclosure of the identity of the co-accused persons is yet to be made, coupled with the allegations in the FIR itself of an alleged assault on a public servant on duty by the applicant with his co-accused persons, there is no ground for grant of anticipatory bail.*

*The application is declined.”*

5. In as much as, the State has till date not filed the charge sheet and in as much as there is no report on the record qua the aspect of the applicant of Bail Appln. No. 2424/2020 of having in any manner committed any further offence during the period when his previous Bail Appln. No. 1298/2020 was declined on the date 29.06.2020, it is considered appropriate to take up the application of this applicant, i.e., Karamvir (the applicant of BAIL APPLN. 2424/2020) as well, in as much as they all relate to the same FIR and the same incident and that all the applicants are related to each other and thus the bail applications are taken up together.



6. As per the FIR No.140/2020, PS Begum Pur dated 13.05.2020 lodged at 21:24 hours on the complaint of Constable Sunny of PS Begum Pur, Rohini, it had been stated by him that on that date i.e. 13.05.2020, he along with HC Brijesh was on patrolling at Tamatar Colony and at about 12.30 hours in the day, he along with HC Brijesh had reached at the Chhath Puja Ghat, Gali No.8 where, enquiries were being made by ASI Subhash Dhaka from a woman and ASI Subhash Dhaka as per the FIR stopped Constable Sunny and HC Brijesh to be present with him, i.e., ASI Subhash Dhaka and the said ASI enquired in relation to the ownership of the plot and it was informed by Constable Sunny, the complainant of the FIR that there was a property dispute between that lady and Dola (i.e. Jitender) and his family members of Tatesar Village. ASI Subhash Dhaka then told Constable Sunny and HC Brijesh that Dola (i.e. Jitender), the applicant of BAIL APPLN. 2487/2020 had threatened that they would come again, and that Ct. Sunny informed his Division Officer, SI Sudeep of the incident who reached with SI Surender at the spot, whereafter, 8-9 men along with 2-3 women reached there in three cars i.e. a Santro bearing no. HR70A 1521, an Accent bearing no. HR26BF8790 and a Swift Dzire No. DL5CQ6806 and started quarrelling with that lady and started making the video. ASI Dhaka asked Ct. Sunny and HC Brijesh to stop those persons and to take them to the police station. As per the FIR, one of the persons said to Karambir that these police officials will catch them and that, that person said to Dola 'brother', let us teach them a lesson and suddenly, Dola and Karambir caught him and a woman accompanying them hit a hard slap on his ear.



Karambir and Dola had also beaten him. At that time, that woman had torn her clothes in anger and told that she was a real Jaatni and she will kill all of them and also get their uniform removed in the Court and all of them together after beating that lady Sushma fled away in their cars. Ct. Sunny further stated as per the FIR that he can recognize all of them and that he was got treated at the Dr. B.S.A. Hospital, Rohini, Delhi. As per the FIR, Dola and his company had beaten Ct. Sunny and others and obstructed in government work and injured them and he sought legal action against them.

7. The applicants further submit that Sh. Jai Kanwar had made a complaint dated 21.3.2020 against Pradeep @ Khalifa, Ram Prasad Bhagel and others for trying to dispossess him on the basis of forged papers but no action was initiated by the police. The applicants submit that Pradeep @ Khalifa along with others including Girish whose name was revealed later on connived with the local police to grab the part of the property and when the said property was sold to Suresh Kumar by Jai Kanwar then they hatched a conspiracy with the help of police to dispossess the new owner Suresh Kumar and to make a construction on the same in order to make a claim on the said property. Mr.Suresh Kumar, who belonged to the same village as Sh. Jai Kanwar is stated to have been duly apprised of the intention of the land grabbers of the area particularly Pradeep @ Khalifa and others and thus Suresh Kumar made Chanderpati (the applicant of Bail Appln. No. 2170/2020) and mother of Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020) and Karamvir (the applicant of BAIL APPLN. 2424/2020) as caretaker and kept one tenant Smt. Bimla on



the property so that Pradeep @ Khalifa and others would not take unlawful possession of the property at the back of Suresh.

8. It has been submitted by the applicants further that as suspected Pradeep @ Khalifa and others along with Girish and their henchman came to the property with the help of the police officials to take possession of the property and to construct the same to claim their possession during the lockdown when citizens were not allowed to come out of the house except for urgent requirement and with the help of the police officials of Police Station Begumpur, namely Ct. Sunny Malik, SI Surender, SI Sudeep Phogat came to dispossess Bimla and Chanderpati (the applicant of Bail Appln. No. 2170/2020) and that Bimla and Chanderpati (the applicant of Bail Appln. No. 2170/2020) being helpless called Mr. Krishan Shokeen, the Advocate of Suresh Kumar on the spot. It has been submitted by the applicants that the Advocate of Suresh told the police not to do an illegal act by supporting Pradeep @ Khalifa and others to grab the property and to raise any construction on the same and a heated discussion took place between the lawyer as well as the police, and the Advocate and SI Surender and SI Sudeep took short videos of the conversation but that the police officials were adamant and they even tried to snatch the mobile phone of the advocate in which the video was being made but the police officials could not succeed in the same.

9. Inter alia, the applicants submitted that the police also misbehaved with the applicant Karamvir (the applicant of BAIL APPLN. 2424/2020) and that Pradeep @ Khalifa, Girish and their henchman came in a Haryana registered Scorpio, the rear of which did



not have any registration number and the word “POLICE” was mentioned on the rear glass. The applicants have placed on record the still photographs of the activities of the police including the alleged threatening posture of the complainant Ct. Sunny Malik, showing a pistol along with the transcript of videos. The video films made by the advocate which the applicants claim showed the illegal acts of the police and of the factum of the police officials including SI Surender and SI Sudeep Phogat taking videos were annexed with the application. The applicants submit that the video films prove that Ct. Sunny Malik was aggressive and was making false allegations against the applicants of trying to break the golden chain of the complainant Ct. Sunny Malik which was falsified from the videography taken by the advocate and also cannot be seen in the video made by the police. Inter alia, it has been submitted that the video rather shows that Chanderpati (the applicant of Bail Appln. No. 2170/2020) was assaulted and was weeping and was later on taken away from the spot by the other accused persons.

**10.** The applicants submit that the owner of the property Mr. Suresh Kumar and Chanderpati (the applicant of Bail Appln. No. 2170/2020) made two separate complaints on 16.5.2020 and thereafter a suit for injunction was filed by the owner Suresh Kumar against Pradeep @ Khalifa and others along with the SHO of Police Station Begumpur but Girish was not made a party as he was not the owner of the property and the purpose of his involvement on the date of the incident was not known to Suresh and he was only considered a man of Pradeep @ Khalifa.



**11.** The applicants submit that the Civil Court granted a stay in favour of Suresh against the construction of property without proper sanction and that information in relation to the order was duly given to the SHO who was a party to the suit and thereafter on 21.5.2020 the owner Suresh Kumar found that Sushma was trying to break open the lock and thereafter a call was made to the SHO and subsequently Ct. Sunny Malik reached the spot who told Sushma to take the possession and on this Suresh Kumar called at No. 100 and then Ct. Sunny Malik also advised Sushma to make a call on No.100 and thereafter some more police officials of Police Station Begumpur reached the spot and helped Sushma to break the lock and entered the house with their help and Suresh Kumar was dispossessed from the property for which he made two complaints dated 22.5.2020 and 23.05.2020 at the office of the DCP but no action was initiated. The copy of the order dated 20.5.2020 in Civil Suit No. 765/2020 was submitted by the applicants.

**12.** The applicants further submitted that surprisingly the property was sold to Girish on 1.6.2020 and thereafter Girish filed a suit for injunction against Jai Kanwar and others including Suresh Kumar and a stay was granted on 6.7.2020 against Jai Kanwar and Suresh Kumar on the basis of a letter of Suresh Kumar dated 22.5.2020 as he had been dispossessed and a story was concocted by Girish that he had agreed to purchase the property of 36 yards on 15.2.2020 for Rs.1,08,000/- after approaching one Rajinder Singh residing in District Dhaulpur, Rajasthan and had paid only Rs. 50,000/- as an advance amount on which the possession of the property was given and the construction was also allowed from the said date and that the



owner had agreed to take the balance amount on 15.04.2020 and ultimately he gave the balance amount at the time of execution of the sale documents on 01.06.2020 and got another possession letter on that day.

**13.** It has been submitted by the applicants that the said Girish who claimed to be present on the spot on 13.5.2020 had not mentioned in his plaint of any assault by any police official on that day which falsifies the prosecution version.

**14.** Inter alia the applicants submit that the falsity of the FIR is borne out even from the factum that persons from the opposite party, i.e., Pradeep @ Khalifa, Girish etc. have also not put forth the contents of their FIR and rather SI Dhaka, Ct. Brijesh were shown to be standing on the spot and were not seen anywhere and if the version of the prosecution was to be believed they ought to have been visible in the video film taken by the lawyer of the applicants and that the video film of the lawyer of the applicants only showed that the policeman Ct. Sunny Malik was carrying a pistol and threatening the applicants not to interfere and the police officials did not relent despite requests by the lawyer to the police officials not to do unlawful acts and they including Ct. Sunny Malik had become aggressive and had even tried to snatch the mobile phone of the lawyer.

**15.** It has been submitted by the applicants that if at all any such alleged assault on one of their colleagues namely Ct. Sunny Malik had taken place, the police personnel who were, as per the prosecution version, more than 8 to 9 at the spot, some of them in Khaki trousers and in civil uniforms would not have stood as mute spectators and



rather would have caught the applicants and would have informed on their wireless to apprehend them and seized their cars as enough police force was available on the roads during the lockdown.

**16.** The applicants submit that the FIR is a concoction of lies as no constable of the name of Ankita ever came to the spot and that the version of Ct. Sunny Malik is wholly falsified from the fact that he was holding a pistol in his hand and as such no one would have dared to come near him. The applicants further submit that the Investigating Officer had not brought out the true facts and did not disclose about the registration of FIR No. 244/2020 Police Station Begumpur under Sections 420/34 of the Indian Penal Code, 1860, dated 13.8.2020 against Girish and others for whose help the police officials have claimed to have gone at the spot of the alleged incident for allowing them to construct their property and a copy of the orders dated 11.8.2020 has been submitted by the applicants. The applicants submit that the police officials have falsely implicated the applicants in collusion with Pradeep @ Khalifa, Girish and others in order to grab the property and to take unlawful possession of the same and have roped the entire family of the applicants, i.e., their widowed mother Chanderpati (the applicant of Bail Appln. No. 2170/2020) and her two sons Karamvir (the applicant of BAIL APPLN. 2424/2020) and Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ).

**17.** The applicants submit that despite the factum that a policeman himself was the complainant of the FIR in the instant case, there was a delay of 7 hours in lodging of the FIR which has not been explained despite the factum that the Police Station was just 2 km. away from



the spot of the alleged assault nor did the complainant make any complaint to the higher officers which was necessary for invoking Section 188 of the Indian Penal Code, 1860.

**18.** The applicants further submitted that there was gross illegality in the investigation of the case being entrusted to SI Surender who was present at the spot along with several other police officials and the complainant and there was thus no fair investigation and that the presence of the Investigating Officer at the spot is captured in the mobile phone of the advocate namely Krishan Shokeen and that the said Investigating Officer could at best be an eye witness if such an incident had happened but could not have taken over the role of the Investigating Officer who had to be neutral for a fair investigation.

**19.** The applicants further submit that the complaint is an after thought and the presence of ASI Ashok Dhaka and Ct. Ankita is disputed in view of documentary proof by way of videography of the place of the incident. The applicants further submit that the prescribed procedure for lodging an FIR was violated as no rukka or tehrir was sent for registration of the FIR and the FIR was registered at the Police Station after proper tutoring and the statement of the complainant was recorded at the Police Station itself by the police where the said police constable was posted and that the FIR was registered after much consultation with Pradeep @ Khalifa, Girish and others and thus it took 7 hours for the registration of the complaint in the premises of the Police Station itself.

**20.** Inter alia, the applicants submit that the allegations of assault were further falsified from the fact that there was no wireless message



that was sent by the police across Delhi to nab the culprits who allegedly assaulted the complainant and that if such an incident of assault with any police personnel had taken place the culprits would have been easily caught as there was a lockdown due to which there were barricades everywhere on the road where sufficient police personnel were deputed in large numbers during the lockdown.

**21.** Inter alia, the applicants submit that apart from the factum that Pradeep @ Khalifa, Girish etc. and henchmen of Pradeep @ Khalifa came in a private Scorpio, on which on the rear it was mentioned in the bold letter the word “POLICE” and there was no number plate on the rear side of the car, some other police officials had come to the spot after removing their name plates and some of them were in civil uniform which was sufficient to show their malafide intention for coming to support to help the opposite party for getting possession of the property unauthorisedly.

**22.** The applicants further submit that the delay in the registration of the FIR was in order to remove the names of Pradeep @Khalifa, Girish and others from the contents of the complaint so that the truth of their helping the other party was concealed. Inter alia, the applicants submit that the police, in that case, would have to book the said persons of the other party under Section 188 of the Indian Penal Code, 1860 and other sections, i.e., qua the persons, who had come to forcibly dispossess and to carry out construction on the property during lockdown contrary to the directions of the National Disaster Management Committee and thus the police officials have shown the



presence of only one woman, whose name was later on revealed to be Sushma to the applicants.

**23.** Inter alia, the applicants submit that the complaint made by Sushma of receiving threats was preplanned by Pradeep @ Khalifa, Girish and others in connivance with the police and in case if only Sushma, who was an old lady, was present at the property then there was no necessity of so many persons being present at the spot nor was any question of so many persons as alleged by the police to come to the spot to threaten her and that too in the presence of police officials. The applicants submit that there is no complaint in this regard by Sushma and there is also no mention of any assault on Sushma by anyone and thus only in order to make a case out against the applicants the police officials had taken Sushma to the hospital for medical examination where she was examined and her MLC indicated that she had not sustained any injury.

**24.** The applicants submit that the falsity of the FIR qua ASI Dhaka taking the complainant Ct. Sunny Malik to the hospital is established from the MLC itself wherein it is mentioned that the complainant had got himself examined and was not taken to the hospital by ASI Dhaka and the said MLC also shows that Ct. Sunny Malik was examined two hours after the incident though the hospital was situated only at a distance of 6 km from the place of the alleged incident. Inter alia, it has been submitted on behalf of the applicants that the MLC did not name the person who had allegedly assaulted the complainant and thus the time was given to Pradeep @ Khalifa, Ram Prasad Baghel, Girish and others to settle the matter and when the same could not be settled



some names were given to the police to name them in the FIR so that pressure could be mounted on Jai Kanwar and Suresh Kumar etc to settle the matter.

**25.** Inter alia, the applicants submit that the MLC in the instant case was collected by the complainant himself in order to convert the injury from simple to grievous which itself indicated the connivance with the police to falsely implicate the applicants. The applicants further submit that the falsity of the prosecution version is also indicated by the fact that one Girish who happened to be present on the spot on the date of incident, i.e., 13.5.2020, though he became an owner on the basis of forged papers on 1.6.2020 had filed a case of permanent injunction against Jai Kanwar and Others on 5.6.2020 had made no mention about the assault on any police personnel which falsifies the version of Ct. Sunny Malik.

**26.** Inter alia, the applicants submit to the effect that the said Girish who had no title of the land on 13.5.2020 was present on the spot and that he had cooked up a story of purchase of the land at Rs.1,08,000/- by paying only Rs.50,000/- on 15<sup>th</sup> February 2020 and had claimed to get possession of the said land on 15.2.2020 and started constructing the property till the time of lockdown. The applicants further submit that the said story is falsified as no owner of the land would wait for getting the remaining amount of Rs.58,000/- till 15.4.2020, till which date the time was given for payment of the remaining amount and would give possession only on the part payment and allow such person to even start the construction on his property and that the said Girish got another possession letter dated 01.06.2020 at the time of



execution of the agreement to sell which again creates doubt on the story of Girish and obviously, the police officials of the area could not be ignorant about such construction and also the alleged owner of the land namely Girish who on 13.05.2020 had no right title over the Suit property though he came on the spot along with the police officials to take possession over the property. The applicants further submit that the chain of documents of the said property purchased by the said Girish would show that the same has been witnessed by one Ram Prasad Bhagel against whom Jai Kanwar, who sold the property to Suresh, had already made a complaint on 21.3.2020 for forging his signatures and trying to take possession of the property.

**27.** The applicants further submit that the factum of the local police joining hands with the complainant and filing a false report of assaults is brought forth from the fact that the Suit No. 395/2020 filed by Girish makes no mention of any assault of any police official nor of Sushma though he himself admitted to have been present on the spot on 13.5.2020 and that the said Girish got his sale documents qua the property executed in his favour on 1.6.2020 and thereafter filed the said suit and did not make mention about the suit bearing No. 765/2020 filed by Suresh Kumar despite knowledge of the same and got a stay order against Suresh Kumar in respect of the same property on the basis of admission made by Suresh in view of his complaint dated 22.05.2020 addressed to the DCP . The applicants further submit that they were only trying to take pictures and this fact was established from the video film made by the advocate namely Krishan Shokeen for the purpose of taking legal recourse and the said video films



further show that Ct.Sunny Malik wanted to get the same destroyed so that there was no proof of any illegal activity of the police before the Court and he had thus even tried to snatch the mobile phone of the advocate. The applicants thus submit that the role of the accused applicants making the video is admitted by Girish in his plaint who was present on the spot on the date 13.5.2020 and allegedly purchased the said property later on 1.6.2020 and the fact of the video was also admitted by the accused persons and that the accused persons were law abiding citizens and were collecting evidence only for the purpose of legal remedy whereas the police officials particularly Ct. Sunny Malik with the help of Pradeep @ Khalifa and others had concocted a false story of assault and registered a false FIR so that Jai Kanwar or any of their associates including the applicants would get scared and would not be able to come near the property because of fear of getting arrested and advantage would be available to the opposite party to take over possession of the land in the absence of the other party coming to the spot.

**28.** The applicants submit that the making of the video of the entire incident by the police official was an important fact which was falsely denied by the police before this Court in its status report leading to the dismissal of the previous Bail Appln. No. 1298/2020 of the applicant Karamvir (the applicant of BAIL APPLN. 2424/2020) and that the applicant has now placed on record the video whilst taken by the advocate Krishan Shokeen, which clearly showed that the police officials had also made a video of the same and were not producing the same before the Court as it would prove the falsity of the



allegations of assault as well as connivance of the police officials with the other party i.e., Pradeep @ Khalifa, Girish and others whose presence at the spot has not been deliberately disclosed by the police so that the blame would be totally on the applicants in order to falsely implicate them under several sections of the of the Indian Penal Code, by allowing other persons to go scotfree. The applicants further submit that the falsity of any assault on the police was also proved from the suit filed by Girish wherein he had mentioned that the accused persons namely were only taking photographs of the property and which fact was further confirmed from the videography taken from the phone of advocate Krishan Shokeen as they were collecting evidence for taking recourse to law in respect of police officials illegal and unlawful support to the land grabbers. The applicants further submit that the connivance of police could be judged from the video file wherein several persons were seen in the video having been brought by Pradeep @ Khalifa, Girish & others but the police have shown only 3 persons as accused but had not shown the presence of Advocate Krishan Shokken who was arguing with the police and telling them not to help the other parties for getting illegal possession and construction on the property belonging to Suresh and that the connivance of police, Pradeep @ Khalifia was also proved from the video file where several other persons present have been brought by Pradeep @ Khalifa, Girish, and others and never wanted to book their own men U/s 188 and other sections of IPC though it was mandatory for the police to book every one U/s 188 IPC for violating the orders passed under section 144 Cr.P.C. during the lockdown period.



**29.** The status report dated 3.9.2020 submitted under the signatures of the SHO Police Station Begum Pur in Bail Appln. No. 2487/2020 (i.e., the bail application filed by the applicant Jitender @ Dola) states to the effect that the FIR was registered on the statement of Ct. Sunny, 1254/RD, posted at Police Station Begumpur wherein he alleged that on 13.5.2020 he along with HC Brijesh at Tamater Colony at about 12:30 hrs of the day reached at the Chhath Puja Ghat, Gali No.8, Delhi where ASI Subhash Dhaka was making inquiries from the caller Sushma and ASI Subhash Dhaka stopped Ct. Sunny and HC Brijesh and enquired about the present matter wherein Ct. Sunny informed him that it was a property dispute between the lady caller and Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) , and his family members who were residents of Tatesar village. ASI Subhash Dhaka informed that the applicant Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) and his family members had threatened the caller i.e. Sushma and had also threatened the caller that they would come again. Ct. Sunny, apprised SI Sudeep the Division Officer in the matter who reached the spot along with SI Surender and at that time 8-9 men along with two or three women reached the spot in three cars, i.e., Santro-HR70A-1521, Accent HR26-BF-8790 and Swift Dezire No. DL-5C-Q-6806 and started quarrelling with that lady caller and also started making a video. ASI Subhash Dhaka is stated to have told HC Brijesh and Ct. Sunny to stop those persons and take them to the Police Station.

**30.** As per the status report dated 3.9.2020, a person named Karamvir (the applicant of BAIL APPLN. 2424/2020), said that these



police officials will catch us and another person asked Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) that let us teach them a lesson and then the applicants Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) and Karamvir (the applicant of BAIL APPLN. 2424/2020) caught Ct. Sunny and a woman accompanied them and hit a hard slap on his ear. Karamvir (the applicant of BAIL APPLN. 2424/2020) and Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) also beat Ct. Sunny and at that time the woman Chanderpati (the applicant of Bail Appln. No. 2170/2020) tore her clothes in anger and told that she was a real Jaatni and that she would kill all of them and said that she would get all their uniforms removed in Court.

**31.** As per the said status report all these accused persons fled from the spot after beating Ct. Sunny and lady caller Sushma and that Ct. Sunny can identify all of them. It is also stated in the status report that Ct. Sunny was admitted to the BSA Hospital vide MLC No. 1105/T/2020 wherein the doctor mentioned the alleged history of physical assault with the result of the injury then being under observation and subsequently, the doctor opined the nature of the injury sustained by Ct. Sunny as being grievous and thus in place of Section 332 of the Indian Penal Code, 1860, Section 333 of the Indian Penal Code, 1860, was invoked.

**32.** As per the status report dated 3.9.2020 submitted by the SHO Police Station Begumpur, on receipt of the complaint of Chanderpati (the applicant of Bail Appln. No. 2170/2020) , a local inquiry was conducted by Inspector Satbir Singh, ATO/ Police Station Begumpur



and it was learnt that one Suresh Kumar claimed himself to be owner/ bonafide buyer ( since 12.5.2020 from one Jai Kanwar S/o Bhan Singh R/o H. No. 64, Village Tatesar, Delhi) of a plot bearing No.50, a land measuring 400 sq. yards, N Block, Gali No. 8-9, out of Khasra No. 68/10, 68/11 and 69/15, Rajeev Nagar Extension and the said Jai Kanwar had bought 2.5 acres of land out of Khasra Nos. 68/10, 68/11 and 69/15 out of the Revenue Estate of Village Barwala, Delhi and Abadi known as Rajeev Nagar Extension, Delhi, on 13.6.1990. As per the status report Jai Kanwar did not want to extend any co-operation stating that he was suffering from ill health and the matter was *sub judice* in a Civil Court at Rohini.

**33.** As per the status report, Suresh Kumar was also avoiding to provide any assistance to the police and Jai Kanwar was not willing to identify the disputed land/plot No.50, a land measuring 400 sq. yards, N Block, Gali No. 8-9, out of Khasra No. 68/10, 68/11 and 69/15, Rajeev Nagar Extension, Delhi. The caller on whose call the police had reached at the spot Smt. Sushma on the other hand as per the status report had submitted that she owned a plot of land admeasuring 36 yards No.50, Gali No. 8-9, out of Khasra No. 68/21, out of Revenue Estate Barwala, Delhi and abadi known as Rajeev Nagar Extension, (khasra No. 68/21 out of revenue estate of village Barwala Delhi and abadi known as Rajeev Nagar Extn. Delhi being also mentioned in the electricity bills of neighbours of Smt. Sushma) which land of Smt. Sushma was stated through the status report to be different from the Khasra numbers of land claimed by the complainant that is land plot bearing No. 50, a land measuring 400 sq. yards, N



Block, Gali No. 8-9, out of Khasra No. 68/10, 68/11 and 69/15, Rajeev Nagar Extension. It was further stated through the status report that the police had not dispossessed the applicants, i.e., the applicants, Chanderpati (the applicant of Bail Appln. No. 2170/2020), Karamvir (the applicant of BAIL APPLN. 2424/2020) and Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) from their possession nor was any possession handed over to any party by the police. Inter alia, it has been submitted through the status report that both parties had filed a civil suit in the Court and on 20.5.2020 in the matter of Suresh Kumar v. Pradeep Khalifa @ Lambu and Ors., it had been directed that no construction be carried out by either party over the suit property except after obtaining authorization/permission from the concerned municipal body and that no third party interest be also created by either party.

**34.** The copy of order dated 6.7.2020 in CS No. 416/2020 titled Suresh Kumar V. Pradeep @ Lambu @ Khalifa & Ors. of the Court of the JSCC/ASCJ/CJ, North-West, Rohini has been placed along with the status report submitted by the State whereby the interim orders were extended. It has been further stated through the status report that on 6.7.2020, in CS No. 395/2020 titled Girish Kumar Vs Jitender @ Dhaula @ Pehlwan and others the Court restrained the defendants from dispossessing the plaintiffs of the suit property and further from interfering in the peaceful possession of the plaintiff over the suit property which included non-interference and any kind of construction carried out by the plaintiffs in the suit property till the disposal of the suit.



35. The status report further states to the effect that the advocate of the defendants, i.e, of the applicants herein, Mr.Krishan Shokeen had given a statement before the Court that they would not dispossess the plaintiff without due process of law.

36. The status report also states to the effect that the applicant Chanderpati (the applicant of Bail Appln. No. 2170/2020) had also filed a complaint against the police officials at Police Station Begumpur which has been filed after an inquiry was conducted and after the said applicant Chanderpati (the applicant of Bail Appln. No. 2170/2020) filed a complaint under Section 156(3) of the Cr.P.C., 1973, in the Court of the concerned ACMM and Inspector Satbir Singh, ATO/ Police Station Begumpur had filed a status report in the that Court after conducting an enquiry.

37. A status report was submitted in this case by the State before the Trial Court, copy of which has been annexed as Annexure D to the status report submitted in the application of Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020).

38. Inter alia, as per the said status report it was submitted to the effect that:-

***“It is submitted that above mentioned complaint case is filed by Smt, Chanderpati W/o Late Sh. Jai Prakash against SI Sudeep Phogat, SI Surender, Ct. Sunny Malik & Ct. Mandeep. Wherein it is alleged that on 13/05/2020 at about 02.00 PM she visited the property of Suresh S/o Shri Bhagwan which is situated at property bearing No. plot 50, N block, gali No. 8 & 9 out of khasra No. 68/10, 68/11, 69/15 Rajeev Nagar Extn. Delhi as she was deputed as care taker of the said property by Suresh. She further alleged that on spot some people namely Girish,***



*his mother, Pradeep @ Khalifa alongwith above said police officials doing the illegal construction at the above said property and were trying to dispossess Bimla and her children from the possession of the said property. On this she called her lawyer at the spot. She also alleged that she was hit by police officials torn her cloths and put loaded gun on her chest abused her. Advocate Krishan Shokeen captured the episode in his mobile. Police officials tried to snatch his mobile but he managed to escape.*

*In this regard it is submitted the complaint of Smt Chanderpati was marked to me for enquiry and action. On receipt of complaint a local enquiry was conducted by me and it is learned that Suresh Kumar is claiming owner/bonafide buyer (since 12 May 2020 from one Jai Kanwar S/o Sh, Bhan Singh R/o H No. 64, village Tatesar Delhi) of plot bearing number 50, land measuring 400 sq. yds. N, block gali No 8-9, out of Khasra No.68/10, 68/11 & 69/15, Rajeev Nagar Extn. Delhi. The said Jai Kanwar had bought 2.5 acres of land out of Khasra No.68/10, 68/11 & 69/15 out of revenue estate of village Barwala Delhi and abadi known as Rajeev Nagar Extn. Delhi on 13 June 1990. Jai Kanwar does not want to extend any cooperation on the pretext of ill health and matter being subjudice in the Civil Court at Rohini, Delhi. Suresh Kumar is also avoiding to provide any assistance to police, the reason best known to him. Jai Kanwar is not willing to identify the disputed land/plot bearing number 50, land measuring 400 sq. yds. N, block gali no.8-9, out of Khasra No.68/10, 68/11 & 69/15, Rajeev Nagar Extn. Delhi.*

*On the other hand the alleged Smt. Sushma is owning a plot of land measuring 30 sq. yds. Gali No 8-9, out of khasra No 68/21 out of revenue estate of village Barwala Delhi and abadi known as Rajeev Nagar Extn. Delhi (khasra No 68/21 out of revenue estate of village Barwala Delhi and abadi known as Rajeev Nagar Extn.*



*Delhi is also mentioned in electricity bills of neighbours of Smt. Sushma) is different from the khasra numbers of land claimed by complainant i.e. land/plot bearing number 50, land measuring 400 sq. yds. N, block gali No 8-9, out of khasra No 68/10, 68/11 & 69/15 Rajeev Nagar Extn. Delhi.*

*It, is further, submitted on the day of filing of alleged complaints i.e. 21/05/20 evidences were generated to mount pressure on local police as well as alleged Smt. Sushma to counter the FIR No. 140/20 dated 13/05/2020 U/s 186/188/332/353/506/34 IPG registered against some known persons Karambir, Dhaula and Smt. Chanderpatti @ Chandro mother of alleged/accused Dhauia and some other unknown persons. The said case is pending investigation. Copy of FIR No. 140/20 dated 13/05/2020 U/s 186/188/332/353/506/34 IPG PS-Begumpur/RD, Delhi is enclosed herewith for kind perusal please. The said FIR is self explanatory in nature. It is very much surprising that the said colonizer Jai Kavar having its office in close vicinity of PIQ then how it is possible that some one had grabbed his plot i.e. PIQ. In r/o photographs annexed with complaint it is submitted that Ct. Sunny himself is complainant in FIR No. 140/20 dated 13/05/2020 U/s 186/186/332/353/506/34 IPC PS-Begumpur/RD (FIR copy attached) and he was beaten by the alleged/accused persons and stones were also pelted on him which visible In the pictures. Ct. Sunny had taken out his service pistol to maintain the law & order and in his self defence too, Ct. Sunny neither aimed the pistol at anyone nor he fired any ammunition with the pistol.*

*That the Hon'ble High Court of Delhi rightly observed in anticipatory bail application No. 1298/20 of accused Karamvir dated 29/06/2020, that all complaints that have been made by accused persons are after registration of the FIR and the FIR in the instant case is dated 13/05/2020. Allegations in the FIR itself of an alleged assault on a public servant on duty by the*



*applicant with his co-accused persons, there is no ground for grant of anticipatory bail. The application is declined. (Copy of order attached)*

*That another complainant Suresh Kumar had rightly stated in his statement regarding contents of complaints wherein he stated that he is not aware about the matter written/typed in complaints as he only put his signatures. In reference No. C-554/SHO-Begumpur dated 04/06/2020 complainant had got stay on PIQ on 21 March 2020 but he purchased the same on 12/05/2020. The act of complainant and contents of complaints show that there is some conspiracy hatched among complainant, colonizer Jai Kavar, Suresh and alleged persons of case FIR No. 140/20 PS-Begumpur.*

*It is also pertinent that complainant Smt. Chanderpati her sons and other alleged persons are not joining the investigation of the case but opting different tactics to mount pressure and mislead the 10. Complainant and her family is well off and her sons are well established property dealer/colonizer of the area but she opted to take care the property of another complainant Suresh to fetch some money.*

.....  
.....”

39. Inter alia, it was submitted that it had already been observed by this Court in Bail Appln. No. 1298/2020 of the applicant Karamvir (the applicant of BAIL APPLN. 2424/2020) vide order dated 29.6.2020 that all complaints that had been made by the accused persons were after registration of the FIR and the FIR in the instant case was dated 13.5.2020. The State submits that the allegations in the FIR are of an alleged assault on a public servant on duty by the applicants and thus it had been held that there was no ground for grant of anticipatory bail vide order dated 29.6.2020.



40. According to the State, the contents of the complaint of Chanderpati (the applicant of Bail Appln. No. 2170/2020) show that there was a conspiracy between her, Jai Kanwar and Suresh Kumar and the applicants/ accused in FIR 140/2020 Police Station Begumpur. It was also stated by the State, that Suresh Kumar another complainant of whose property the applicant Chanderpati (the applicant of Bail Appln. No. 2170/2020) had claimed to be caretaker had stated that he was not aware of the matter and had only put his signatures. Inter alia, it was submitted in that status report before the Trial Court by the State that the complainant Chanderpati (the applicant of Bail Appln. No. 2170/2020) got filed the complaint as she and other alleged persons were not joining the investigation of the case and were trying to opt for different tactics to mount pressure and mislead the Investigating Officer and that she and her family were well off and her sons were well established property dealers/colonizers of the area but she had opted to take care of the property of another complainant Suresh to fetch some money.

41. The State has thus sought the dismissal of the complaint case filed by Chanderpati (the applicant of Bail Appln. No. 2170/2020) in the case titled ***Chanderpati V. Ct.Sunny Malik & Ors.***

42. Inter alia through the status report submitted in Bail Appln. No. 2487/2020, which in view of its contents is being read as the status report in all the cases, i.e., Bail Appln. No. 2487/2020, Bail Appln. No. 2424/2020 and Bail Appln. No. 2170/2020, it was stated that during the investigation of the case it had been brought out that one eye witness, named Mukesh Kumar had witnessed the incident at the



spot and the State submits that he is clearly seen in the photographs that have been attached by the applicant Chanderpati (the applicant of Bail Appln. No. 2170/2020) in her petition i.e., Bail Appln. No. 2170/2020 at page 76 and stated that whilst he was going for his own work towards Rajeev Nagar, Begumpur, he saw some police officials and some public persons including females gathered near Gali No.8, Tamatar Colony, Rajeev Nagar Extension, Delhi on 13.5.2020 and some public persons were misbehaving with police officials and he was surprised to see that two persons had caught hold of one police man and one female slapped the police man and that female had also torn her clothes by saying that “Main tum Sabki Wardi Utarwa Dungi” and all those persons ran away whilst being seated in three cars.

**43.** Inter alia the State has submitted through the status report that SI Surrender was on emergency duty on the date of the incident and he had reached the spot along with SI Sudeep on the verbal directions of senior officers after getting information from Ct. Sunny about the threat to the caller lady Sushma when doing the construction work which was mentioned in the FIR and that SI Surrender did not make any video as he was just attending a phone call during the incident.

**44.** As per the State the three videos recording clips of duration 1:10, 0:35 and 1:47 minutes have been sent on whatsapp and on perusal it was found that the applicant i.e. Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020) and the applicants, i.e, Chanderpati (the applicant of Bail Appln. No. 2170/2020) and Karamvir (the applicant of BAIL APPLN. 2424/2020) were present



with the advocate Krishan Shokeen on the spot and all were aggressive and threatened the police.

**45.** Inter alia the State submits that the applicants have selected the selective portions of the video and in the same it was clearly seen that all the applicants, i.e., Chanderpati (the applicant of Bail Appln. No. 2170/2020), Karamvir (the applicant of BAIL APPLN. 2424/2020), and Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) were threatening the police along with other associates and were also seen calling names in the video clips and that they were levelling baseless allegations on the police to mount pressure and that the police was trying to control the law and order situation and one witness Mukesh Kumar had witnessed the whole incident and his statement under Section 161 of the Cr.P.C., 1973, had been recorded.

**46.** Inter alia, the State submitted that the applicants/accused persons could not be apprehended at the spot because they were in a large number and were very aggressive and though an attempt was made to catch them they ran away by sitting in their respective cars and also tried to hit SI Sudeep by their Accent Car but managed to escape.

**47.** Inter alia, the State has submitted through the status report that Girish had already built one floor at the time of the incident and it was thus not possible that Girish had taken forcible possession on 21.5.2020 as alleged by the applicants. The State further submits that a case FIR No. 244/2020 under Sections 420/34 of the Indian Penal Code, 1860 was registered on 13.8.2020 at Police Station Begumpur on the directions of the Court under Section 156(3) of the Cr.P.C.,



1973, to determine the genuineness of the allegations levelled by Suresh Kumar which investigation at that stage was at a preliminary stage. The said status report further indicates that the complaint was received from both parties, i.e., Jai Kanwar and Pradeep @ Khalifa against each other and the State put forth that it was strange that Jai Kanwar had sold the property in question to one Suresh Kumar of own village on 12.5.2020 just a day before the incident. The State further submits that the alleged transcripts of video recording is self explanatory that all the accused persons including Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020) were desperate and assaulted as well as hindered the work of police officials whilst on duty and that all complaints made by the accused person were after the registration of the FIR to take benefit in the instant case. The State also submits that the complaint made by Suresh Kumar s/o Shri Bhagwan r/o H No 66 Village Tatesar, Delhi on 16.5.2020 stated that he purchased No.50, a land measuring 400 sq. yards, N Block, Gali No. 8-9, out of Khasra No. 68/10, 68/11 and 69/15, Rajeev Nagar Extension Rajeev Nagar Extn, Delhi on 12/5/2020 from Jai Kanwar s/o Bhan Singh r/o Village Tatesar, Delhi and that the said documents were executed just a day before the registration of the case in order to make false complaints to mount pressure on the police and to take benefit in the case.

**48.** Inter alia the State submits that the applicants Karamvir (the applicant of BAIL APPLN. 2424/2020) and Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) are the real nephews of Jai Kanwar and Chandernpati (the applicant of Bail Appln. No. 2170/2020)



is the real sister-in-law of Jai Kanwar and the other complaints are also moved by the known persons known to Karamvir (the applicant of BAIL APPLN. 2424/2020) and Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) which are pending enquiry.

**49.** The State further submits that Ct. Sunny did have a pistol in his hand but he is the complainant in the case and he was beaten by the accused persons and stones were pelted on him which was clearly visible in the photographs and that Ct.Sunny Malik was caught hold by the alleged persons as seen in the picture and thus Ct. Sunny had taken out his pistol to maintain the law and order and in his self-defence too and that Ct Sunny had not aimed the pistol at anyone nor did he fire any ammunition with the pistol.

**50.** The State has further submitted that the applicants have committed a serious crime and created an obstruction in Government work during the COVID 19 pandemic and thus their applications be dismissed.

**51.** The submissions in the status report dated 18.8.2020 of the State under signatures of the SHO Police Station Begumpur filed in Bail Appln. No. 2170/2020 are virtually to similar effect.

**52.** The applicants submit that the registration of this FIR is a misuse of the powers of police who helped the opposite party in grabbing the property of the real owner, that the FIR in this case was registered after seven hours, that SI Surender Singh was already present at the spot and was making a video and could thus not have taken over the role of the Investigating Officer as the Investigating Officer has to be independent and impartial. Inter alia the applicants



submit that a false status report has been filed by the State in the previous bail application of the applicant Karamvir (the applicant of BAIL APPLN. 2424/2020), i.e., Bail Appln. No.1298/2020. Vide order dated 29.6.2020 the bail application of Karamvir (the applicant of BAIL APPLN. 2424/2020) was rejected. It has been submitted by the applicants that at the time when the previous bail application of Karamvir (the applicant of BAIL APPLN. 2424/2020), was filed the video was not available with the applicants. It has been submitted by the applicants that the applicant Chanderpati (the applicant of Bail Appln. No. 2170/2020) w/o Jai Prakash, the mother of Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) s/o Jai Prakash and Karamvir (the applicant of BAIL APPLN. 2424/2020) s/o Jai Prakash was appointed as the caretaker of the property, i.e., No.50, a land measuring 400 sq. yards, N Block, Gali No. 8-9, out of Khasra No. 68/10, 68/11 and 69/15, Rajeev Nagar Extension, Delhi whilst Sh. Suresh Kumar of village Tatesar purchased the same on 12.05.2020 from Sh. Jai Kanwar of the same village who had earlier sold several properties in that area and a copy of the agreement to sell dated 13.6.1990 along with its translation in favour of Jai Kanwar by the previous Inder Singh and true copy of the GPA dated 12.5.2020 executed by Jai Kanwar in favour of Suresh Kumar were submitted by the applicants.

**53.** The applicants have placed on record the photographs of the police officials inclusive of Ct. Sunny Malik holding a pistol in his hands as well as a video clipping at the time of the alleged incident and the transcript of an audio recording of the date 13.5.2020 between



the applicant Karamvir (the applicant of BAIL APPLN. 2424/2020) and his counsel Krishan Shokeen to contend to the effect that the police personnel were aiding the opposite party Pradeep @ Khalifa @ Lambu, Gaurav, Girish, Ram Prasad Bhagel and Jain in putting up a lantern at the spot allegedly belonging to Suresh Kumar of which Chanderpati (the applicant of Bail Appln. No. 2170/2020) was the caretaker. The certificate under Section 65B of the Indian Evidence Act, 1872 has not been placed on record by the applicants in support of the video clippings and transcript of the recording in the said video clipping nor of the conversation between the applicant Karamvir (the applicant of BAIL APPLN. 2424/2020) and his counsel Mr. Krishan Shokeen.

**54.** However, the factum of an incident having taken place on 13.5.2020 is undoubtedly brought forth through the said video clipping as well as through the factum of institution of suit bearing CS No. 765/2020 by one Suresh Kumar s/o Shri Bhagwan who filed a suit for permanent injunction against the Pradeep @ Khalifa@ Lambu, Satish s/o Ram Prasad and the SHO Police Station Begumpur claiming to the effect that on 12.5.2020 he had purchased the suit property bearing No.50, a land measuring 400 sq. yards, N Block, Gali No. 8-9, out of Khasra No. 68/10, 68/11 and 69/15, Rajeev Nagar Extension, Delhi, from Sh. Jai Kanwar s/o Bhan Singh r/o 64, Village Tatesar, Delhi vide a GPA, agreement to sell, affidavit, cash receipt, possession letter, will etc. and that on 12.5.2020 Sh. Jai Kanwar had peacefully handed over the physical possession of the suit property and that on 13.5.2020 at about 2 p.m. when the plaintiff visited the suit property



along with the caretaker Chanderpati (the applicant of Bail Appln. No. 2170/2020) he saw that some people namely Pradeep @ Khalifa @ Lambu, Gaurav, Girish, Ram Prasad Bhagel and Jain with the help of some police officials namely SI Sudeep Phoghat, SI Surender, Ct. Sunny Malik they were trying to dispossess Bimla and Chanderpati from the suit property and Chanderpati (the applicant of Bail Appln. No. 2170/2020) had called her lawyer named Krishan Shokeen and asked him to reach at the spot whereafter the advocate Krishan Shokeen reached the spot and captured the incident in the mobile and thereafter the police officials were trying to snatch his mobile phone and misbehaved with the advocate Krishan Shokeen and manhandling was done.

**55.** Inter alia, it has been submitted on behalf of the applicants that the plaintiff Suresh Kumar saw that these persons along with some police officials were trying to enter into the premises forcefully and that they were carrying a pistol loaded with bullets and pressurizing the caretaker of the property and that the plaintiff was surprised to know that two persons out of the mob were claiming the above said property belonging to the plaintiff to be theirs. Inter alia the plaintiff submitted that on inquiry he learnt that the defendants no.1 and 2 to the Suit, i.e., Pradeep @ Khalifa@ Lambu and Satish S/o Ram Prasad Bhagel had prepared forged and fabricated documents of the suit property and the plaintiff Suresh had submitted through his plaint that the boundary wall had been repaired by the plaintiff and there was a grave apprehension that their wrongful possession would be maintained by the strangers like Pradeep @ Khalifa@ Lambu and



Satish with the collusion of police officers and that those persons on the basis of the forged documents intended to sell the property to different persons. The plaintiff Suresh vide that suit had made a prayer seeking a restraint against the defendants to the suit and their legal representatives from interfering in his peaceful possession and from creating any third party interest on the suit property. The said plaint is dated 18.5.2020. Vide order dated 20.5.2020 as adverted to elsewhere herein above, the learned Additional District Judge-02, North-West in the said suit directed that till further orders no construction be carried out by either party over the suit property except after obtaining proper authorization/permission from the concerned Municipal body and that no third party interest be also created by either party.

**56.** Girish Kumar s/o Ranveer Singh vide CS No.395/2020 a suit for permanent injunction dated 5.6.2020 instituted against Jitender @ Dola @ Pehlwan (the applicant of BAIL APPLN. 2487/2020 ), Puneet, Heera @ Jai Kanwar and Suresh Kumar (Suresh Kumar being the plaintiff of Suit No.765/2020 and Jai Kanwar being the stated erstwhile owner of the property in suit from whom Suresh Kumar purchased the property) submitted that he was the owner and in actual physical possession of plot bearing No. N-5, Land Area measuring 36 Sq.Yrds (size: 12' X 27') out of total area measuring 300 Sq. yrds out of Khasra No. 68/21 situated in the area of Village Barwala, Abadi known as Rajeev Nagar Extension, Delhi and that in the month of February he had approached one person namely Sh. Rajender Singh, S/o Sh. Phool Chand, R/oBada Gher, Dholpur, Bajna Rajasthan and



had expressed his desire to purchase a plot for his residential purposes to which that person agreed to initiate the sale of the property against the available consideration of Rs.1,08,000/- in full and final settlement and on 15.2.2020, the plaintiff, i.e., Girish had given a sum of Rs.50,000/- in cash under the head 'Token/Bayana' to Sh. Rajender Singh qua the said property against which a Bayana receipt was issued by the named seller in favour of the plaintiff of that suit Girish and it had been mutually agreed between the parties to send the rest of the consideration amount of Rs.58,000/- on or before 15.4.2020 on the condition that if the purchaser was unable to pay the rest of the consideration amount within the stipulated time period then the paid amount will be forfeited and the purchaser will not raise any such claim over the property nor for the payment.

**57.** It is stated through this plaint that on 15.2.2020 the plaintiff i.e. Girish had expressed his desire to construct the suit property to the seller and to which the seller had agreed on the assurance that the plaintiff would honour the rest of the payment within time and the possession of the suit property was handed over to the plaintiff Girish by the seller permitting him to construct the property whereafter the plaintiff Girish started the construction work in the suit property but due to the COVID 19 pandemic and the lockdown, the construction had stopped. This plaintiff submitted through his plaint that on 13.5.2020 he visited the suit property for a formal inspection and at that time when he was inside the property a person named Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) with some unknown 5 to 7 persons came outside, closed the entrance door of the



property and started taking pictures at the Gate side and when the plaintiff asked them why they were capturing such pictures of his house they very rudely told him “ Chal be chal” and when the plaintiff was exchanging words with them an unknown person entered the premises, took some pictures of the property from inside and when the plaintiff opposed the same they started using filthy language and told him that the property belonged to them and they would create the documents of the property and that he would have to run from there or face dire consequences claiming that the property would all be theirs and then some of other property owners called at No.100 to make a complaint against these notorious persons after which they ran away from the plot. According to this plaintiff on 29.5.2020 the seller met the plaintiff and asked him to complete the documentation and the title deeds of the property and on 1.6.2020 all documents were reduced into writing and were duly notarized and the sale consideration of Rs.1,08,000/- as full & final payment was made by the plaintiff to the seller against Bayana/token payment receipt and on 1.6.2020, the plaintiff Girish re-signed the possession letter and took the possession of the suit property and on 2.6.2020 when he visited the suit property, he was informed by neighbours that some local property dealers who are habitual of grabbing the property had visited the suit property with some hooligan's goons and that the plaintiff claimed that the defendants had an ill will and an evil eye on the property and thus sought a restraint against the defendants and their associates from entering, dispossessing and interfering in his peaceful possession in the suit property as claimed in that suit property.



58. Vide order dated 6.7.2020 in the suit CS 395/2020 filed by Girish Kumar titled Girish Kumar V. Jitender @ Dhaula @ Pehlwan and Ors., the learned Civil Judge, North-West observed to the effect that the plaintiff is admittedly in possession of the suit property and that the correct property number can only be ascertained after the evidence had been led by both the parties and the defendants were thus restrained from dispossessing the plaintiff from the suit property and further from interfering in the peaceful possession of the plaintiff over the suit property which included non interference in any kind of construction being carried out by the plaintiff in the suit property till the disposal of the suit.

59. **It is indicated through this order that the main contention between the parties was with respect to the Khasra number in which the property in dispute fell and that both parties had placed on record their own set of documents with different khasra numbers and whereas the plaintiff Girish claimed that the property fell within Khasra No. 68/21, the defendants submitted that the property in question fell within Khasra No. 68/10.**

60. It is essential to observe that the alleged facts in relation to the civil dispute undoubtedly were available at the time of consideration of the bail application no. 1298/2020 and it had been observed to the effect that on a consideration of the status report in the FIR in question submitted in that case which indicate that though the applicant Karamvir (the applicant of BAIL APPLN. 2424/2020) had joined the investigation, he had not cooperated in the same and the disclosure of the identity of the accused persons was yet to be made coupled with



allegations in FIR itself of an alleged assault on a public servant on duty by the applicant Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) with his co-accused persons it was held that there was no ground for grant of anticipatory bail.

### **CONCLUSION**

**61.** Taking into account the factum however that a period of two years has virtually elapsed from the date 29.6.2020 when the previous bail application of the applicant Karamvir (the applicant of BAIL APPLN. 2424/2020) i.e., Bail Appln. No. 1298/2020 was rejected and taking into account the factum that there are restraint orders passed in CS 765/2020 dated 20.5.2020 of the suit titled ***Suresh Kumar V Pradeep @ Lambu @ Khalifa & Ors.***, Suresh claiming to be the original owner of the property of which Chanderpati (the applicant of Bail Appln. No. 2170/2020) mother of Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) and Karamvir (the applicant of BAIL APPLN. 2424/2020) was appointed as the care taker of the property allegedly in question whereby vide order dated 20.5.2020 the parties thereto have been restrained from carrying out any construction over the property without obtaining the proper authorization/permission from the concerned municipal authority with the parties having been directed not to create any third party interest, coupled with the factum that vide order dated 6.7.2020 in **CS 395/2020 titled *Girish Kumar V. Jitender @ Dhaula @ Pehlwan & Ors.***, it is brought forth ***prima facie*** that the number of the property in question itself is in dispute when the alleged incident took place of which property, Girish, the plaintiff of CS 395/2020 pending before the Civil



**Judge-(North-West) and of which Suresh, the plaintiff of CS No. 765/2020 claim ownership and the factum that vide order dated 6.7.2020, the defendants to the CS 395/2020 have been restrained from dispossessing the plaintiff from that suit property or from carrying on any kind of construction therein, in the disputed facts and circumstances of the case, taking into account the lapse of the period of 2 years from the date 29.6.2020 and thus when the previous application of Karamvir (the applicant of BAIL APPLN. 2424/2020) was rejected, which itself is a changed circumstance by the period of two years that have elapsed, it is considered appropriate to direct that the three applicants, i.e., Chanderpati (the applicant of Bail Appln. No. 2170/2020), Jitender @ Dola, (the applicant of BAIL APPLN. 2487/2020 ) and Karamvir (the applicant of BAIL APPLN. 2424/2020) in the event of their arrest be allowed to be released on bail on their furnishing a personal bond in the sum of Rs.2,00,000/- each with one surety in the like amount each to the satisfaction of the Trial Court with directions that they shall not leave the area of NCR, shall appear before the Investigating Officer as and when directed, shall keep their mobile phone on at all times to ensure that their location is available to the Investigating Officer, that they shall make no attempt to influence or intimidate the prosecution witnesses in any manner.**

**62.** The Bail Appln. No. 2170/2020, Bail Appln. 2487/2020 and BAIL APPLN. 2424/2020 are disposed of accordingly.



NEUTRAL CITATION NO: 2022/DHC/002418

Nothing stated hereinabove shall amount to any expression on the merits or demerits of the trial of FIR No. 140/2020 Police Station Begumpur.

**ANU MALHOTRA, J.**

**JULY 04, 2022**

NC/SV

