



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

% ***Date of decision: July 18, 2023***

+ **BAIL APPLN. 1517/2023**

MAYANK KHATRI

..... Applicant

Through: Mr. Pankaj Kumar Sharma and Ms.
Madhu Katiwal, Advocates.

Versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. A.V.S., APP for State with ASI
Dinesh Kumar, PS-Keshav Puram.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. This is a bail application seeking grant of regular bail by the applicant under Section 439 of the Code of Criminal Procedure, 1973 being accused in FIR No.609/2022 dated 06.07.2022 registered at P.S.: Keshav Puram, Delhi under Sections 506/341/308/120-B/34 of the Indian Penal Code, 1860 (IPC).

2. As per the FIR, Mr. Karan Yadav, a co-accused of applicant residing nearby the complainant, was frequently engaging in fights with residents of the locality. Around one month before the filing of the FIR, the applicant and another person, on instructions of Mr. Karan Yadav, threatened the complainant to remove his car from where it was parked. Later, the said Mr. Karan Yadav, applicant and another person threatened the complainant of dire consequences in case he did not remove his car. On 05.07.2022, the complainant first saw the applicant near his house around 03:00 PM and then, around 06:00 PM when he was parking his car, 3-4 boys got down



from a Ford Endeavour bearing registration number HR 26 DS 0010 and started beating the complainant incessantly.

3. Learned counsel for applicant submits that the applicant has been in custody since 18.04.2023. He further contends that the FIR has been registered on incoherent and frivolous facts.

4. Learned counsel for the applicant also submits that the subsequent addition of Section 308, IPC is not well-founded, as the medico-legal report by the medical practitioner is alleged to be made under influence. He also submits that the mother and the brother of the complainant hold influential positions, and by use of this influence, they have obtained a favourable medico-legal report. He further submits that the applicant has not been named as an assailant in the FIR and the CCTV footage do not show usage of any weapons as alleged in the FIR. He also submits that the applicant is neither absconding nor evading arrest. He lastly submits that as the investigation has been completed and as the chargesheet has also been filed, the applicant is no longer required to be kept in judicial custody.

5. Notice was issued and Status Report was filed. The Nominal Roll of the applicant was also called for.

6. The State in its Status Report has opposed the release of the applicant on bail on the ground that one of the co-accused is still absconding and further that the applicant would prejudice the investigation, if released on bail. Learned APP for the State, drawing attention of this Court to the Call Detail Records ('CDR') of the applicant, submits that since the same matches with the co-accused, it shows that the applicant was present at the place of alleged incident. He further submits that the counsel for the applicant withdrew his bail application from the Sessions Court on 28.04.2023.



7. The Nominal Roll shows that there are no instances of previous involvement/cases, in addition to the present FIR, pending against the applicant, the overall jail conduct of the applicant is satisfactory and there is no report of misconduct during interim/ bail/ parole.

8. This Court has heard the learned counsel for the applicant and also the learned APP for the State and perused the relevant documents on record. The above narration shows that the investigation is complete and the chargesheet has also been filed. Thus, in the considered opinion of this Court, the applicant is no longer required to be kept in judicial custody. Considering the said position, there is a likelihood that the trial in the matter will take a considerable period of time, which in the opinion of this Court, means that the applicant will be behind the bars during the said period and will be against the interests of the applicant. The Nominal Roll as aforesaid clearly shows that the overall jail conduct of the applicant is satisfactory and there is no report of misconduct during interim/ bail/ parole is another reason for this Court to release the applicant on regular bail. The applicant has never absconded nor has evaded arrest.

9. In view of the aforesaid, this Court directs the applicant to be released on regular bail in FIR No.609/2022 dated 06.07.2022 registered at P.S.: Keshav Puram, Delhi under Sections 506/341/308/120-B/34 IPC on his furnishing a personal bond in the sum of Rs.50,000/- along with one surety of the like amount by family member/ friend having no criminal case pending against them, subject to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. Applicant shall not leave the National Capital Territory of Delhi without prior permission of this Court and shall ordinarily reside at the address as per prison records. If he wishes to change his



residential address he shall immediately intimate about the same to the Jail Superintendent by way of an affidavit.

ii. Applicant shall surrender his Passport to the Investigating Officer, within three days. If he does not possess the same, he shall file an affidavit before the Investigating Officer to that effect within the stipulated time.

iii. Applicant shall appear before the Court as and when the matter is taken up for hearing.

iv. Applicant shall join investigation as and when called by the Investigating Officer concerned. He shall not obstruct or hamper with the police investigation and shall not play mischief with the evidence collected or yet to be collected by the Police.

v. Applicant shall provide all his mobile numbers to the Investigating Officer concerned which shall be kept in working condition at all times and shall not be switch off or change the mobile number without prior intimation to the Investigating Officer concerned. The mobile location be kept on at all times.

vi. Applicant shall report to the Investigating Officer at P.S.: Keshav Puram, Delhi once every month in the first week of the month unless leave of every such absence is obtained from the learned Trial Court.

vii. Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the victim/complainant or any member of the victim's/complainant's family or tamper with the evidence of the case or try to dissuade them from disclosing such facts to the Court or to any police officials.

10. It is clarified that any observations made on the merits of the matter



are only for the purposes of deciding the present application for releasing the applicant on bail and they shall not be construed as expressions on merits of the matter.

11. Copy of the present order be sent to the concerned Jail Superintendent for onward information and necessary compliance thereof.

12. Accordingly, the present application is disposed of in the above terms.

SAURABH BANERJEE, J.

JULY 18, 2023

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