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

% **Date of decision: 8th August, 2024**

+ **BAIL APPLN. 230/2024**

OM PAL SINGH

.....Petitioner

Through: Mr. Mehul Sharma and Mr. Nagesh
Sharma, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, Ld. APP.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. A regular Bail Application under Section 439 Cr.P.C. has been filed in FIR No.628/2023 under Section 308 IPC at Police Station Bindapur, as the regular bail Application under Section 439 Cr.P.C. of the Petitioner Om Pal Singh has been dismissed by learned ASJ vide Order dated 02.12.2023.
2. The *facts in brief* are that petitioner is the son of the complainant Shri Dharampal Singh who has retired from Delhi Police. They are living in the same inherited house though on different floors. The complainant has been often extending threats to dispossess the applicant. On 15.06.2023, the complainant allegedly tried to take illegal possession by breaking the locks of the flat of the applicant.
3. It is claimed that the present FIR is the consequence of the incident of 21.06.2023 when the complainant entered the land of the Petitioner in Kalupura, Rabupura, Greater Noida, U.P along with JCB and tried to

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demolish his house. The petitioner, however, came to know about his acts and immediately contacted the Police Station and lodged an FIR No.148/2023 against the complainant/his father which was registered under Sections 427/447 IPC.

4. It is claimed that the complainant always had differences with the petitioners and his family members. After the petitioner leaves the house for his job, the complainant misbehaves and harasses the wife and children of the petitioner. They are subjected to extreme cruelty by the complainant and there is threat to their lives.

5. On 11.09.2023 at about 11 A.M the MCD employees requested him to move the car for cleaning the drains. He shifted the car and parked it in front of the main gate to facilitate the cleaning of drain. However, the complainant came and picked a fight and assaulted him and in self defence in order to save himself from any grievous hurt, he tried to catch him, but the complainant lost his balance towards the wall and the scooter fell on his legs, because of which he sustained injuries. He was initially given treatment at Deen Dayal Upadhyay Hospital on 11.09.2023 and the MLC was issued. However, he subsequently went to Venkateshwara Hospital, Dwarka and managed to obtain a fabricated MLC Report from the hospital.

6. The petitioner has claimed that this FIR was a counter blast to his earlier FIR registered at Greater Noida. The alleged incident took place on 11.09.2023, but the FIR has been registered after a delay of 4 days on 15.09.2023. The Notice under Section 91 Cr.P.C was issued by the I.O to the petitioner for production of documents. He has been cooperating with the I.O and has submitted the documents as sought by the I.O on 14.09.2023. He has also given his statement to the I.O.



7. Apprehending his arrest, the petitioner filed an Anticipatory Bail application on 19.09.2023 which was rejected by learned ASJ and thereafter by the High Court and even the SLP preferred was dismissed. Consequently, the petitioner surrendered to the I.O on 30.11.2023 since when he is in Judicial Custody. The Chargesheet has been filed on 29.12.2023 and no fruitful purpose would be served by keeping him in jail.

8. It is submitted that he has been falsely implicated in this case by his own father who wants to disinherit him from the inherited house. The MLC has been manipulated by the petitioner. He has relied upon the judgment of State of Rajasthan, Jaipur vs. Balchand @ Baliay 1977 4 SCC 308; Gurchran Singh vs. State of Delhi Administrative (1978) SCC 188; Sanjay Chandra vs. CBI (2011) 13 Scale 107; State of Rajasthan vs. Balch (1977) 4 SCC 308; Vaman Narain Ghiya vs. State of Rajasthan (2009) 2 SCC 281; and Prasanta Kumar Sarkar vs. Ashis Chatterjee (2010) 14 SCC 496 to assert that the rule is bail and not jail.

9. The petitioner undertakes to abide by all the conditions that may be imposed while granting him bail.

10. The **Prosecution in its Status Report** has submitted that the dispute is between the petitioner and his 79 year old father Shri Dharam Pal. The Hard Disks of CCTV Cameras installed at House No.E-30 and E-29, Milap Nagar, Uttam Nagar have been seized on 10.09.2023 and footage of the incident has been taken in Pen Drive from Shri Sahil Garg. From the CCTV footage, it is found that the petitioner had parked his car in front of the main gate of the house as MCD workers removed the manhole of the sewer for the purpose of cleaning the drainage. The opinion of the Doctor has been taken by submitting the MLCs and the accompanying documents and the



injuries have been certified as grievous.

11. The exhibits seized during the investigation have been deposited in FSL for obtaining expert opinion which is awaited and shall be submitted along with supplementary chargesheet. The investigations have been completed and Final charge sheet has been submitted in the Court on 06.01.2024.

12. **Submissions heard.**

13. The first thing which is evident is that it is a dispute inter-se the petitioner and his father Shri Dharam Pal the complainant which had resulted in registration of an earlier FIR against the complainant on the complaint of the petitioner at Greater Noida.

14. It is further made out that the fight ensued on account of parking of the car by the petitioner in front of the main gate which was on account of the MCD employees cleaning the manhole/drainage.

15. The petitioner is in Judicial Custody since 30.11.2023. The Chargesheet has already been filed in the Court. It has also come on record that charges have been framed but the complainant has not been able to come in the Court to depose on the dates because of his old age and the matter is getting adjourned.

Considering the fact that the petitioner is in Judicial Custody since 30.11.2023 and the Chargesheet has already been filed and that it is a dispute between the father and the son in regard to ancestral property, no fruitful purpose would be served in detaining the petitioner in Judicial Custody. The petitioner is, therefore, admitted to bail on the following conditions:-

a) The petitioner/accused shall furnish a personal bond of



Rs.25,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court.

b) The petitioner/accused shall appear before the Court as and when the matter is taken up for hearing.

c) The petitioner/accused shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number, without prior intimate to the Investigating Officer concerned.

d) The petitioner/accused shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.

e) The petitioner/accused shall not leave the country, without permission of this Court.

f) The petitioner/accused shall not change his residential address and in case of change of the residential address, the same shall be intimated to this Court, by way of affidavit.

g) The petitioner/accused shall not threaten the witnesses and shall join the trial and not tamper with the evidence.

16. The petition is accordingly disposed of.

17. A copy of this Order be communicated to the Jail Superintendent and the learned Trial Court.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 8, 2024

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