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

+ **BAIL APPLN. 265/2024**

INNOCENT DURU@MONDAY

..... Petitioner

Through: Mr. Shyam Sunder Aggarwal,
Advocate (appeared through VC)

versus

STATE

..... Respondent

Through: Mr. Manoj Pant, APP for the State
with SI Bharat Singh, Anti-Narcotics
Cell, Dwarka District and SI Lal
Chand, P.S. Mohan Garden

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

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23.01.2024

CRL.M.A. 2057/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The instant application under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of anticipatory bail in case bearing FIR No. 374/2023 registered at Police Station Mohan Garden, Delhi for offence punishable under Sections 323/342/365/392/34 of the Indian Penal Code, 1860 ('IPC').
4. Issue notice. Mr. Manoj Pant, learned APP accepts notice on behalf of the State.
5. Briefly stated, it is the case of the prosecution that on 31.08.2023 at



about 8:00 PM, the applicant/accused alongwith other co-accused persons had forcefully entered the complainant's house, and had started beating the complainant, his brother and a friend, who were present inside the house. It is further alleged that the applicant alongwith co-accused persons had robbed the complainant, his brother and a friend of their mobile phones alongwith an amount of Rs.1 lakh. It is further alleged that the applicant/accused alongwith co-accused had then taken them to All India Nigerian Student Community Association, Delhi where they were then locked and were again beaten by the applicant and co-accused persons. Thereafter, on 06.09.2023, the accused persons tied the complainant and his companions with chair, and again gave beatings to them. It has also been alleged that the complainant was shifted to another place, and had been kept there in a room till 13.09.2023, and was regularly beaten by the complainant and co-accused persons. It is alleged that one day the complainant had managed to escape. Thereafter, present FIR was registered.

6. Learned counsel for the applicant submits that the petitioner is a Nigerian citizen living in India alongwith his wife, who is an Indian citizen and has two children with her. It is argued that the applicant has been falsely implicated in the present case. It is submitted that the complainant has some previous enmities with the applicant and for that reason the present case has been registered. The petitioner is ready to join the investigation. Thus, the present applicant/accused be granted anticipatory bail.

7. Learned APP for the State opposes the present application, and states that the allegations against the present applicant/accused are grave and serious. He further argues that despite previous anticipatory bail order being rejected by this Court on 22.12.2023, the present applicant/accused has not



joined investigation. In these circumstances, anticipatory bail of the applicant be rejected.

8. This Court has heard arguments addressed on behalf of both the parties and have perused the material available on record.

9. In brief, allegations against the present applicant/accused are that he had allegedly entered into the house of the complainant and had beaten him, his brother and friend. Then, the accused/applicant had taken all of them to a specific area where complainant, his brother and friend had been kept illegally in applicant's/accused's custody. Thereafter, the complainant was again shifted to another place, had been tortured and beaten. It is only after 14-15 days when the complainant managed to escape from the applicant/accused's illegal custody and had got registered the FIR in dispute.

10. This Court notes that allegations in the instant case are serious. Moreover, CCTV footage recovered by the investigating officer clearly shows involvement of the present applicant in the alleged incident. The applicant has still not joined investigation. In such circumstances, no ground for anticipatory bail is made out.

11. Accordingly, the present application stands rejected.

12. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

13. The order be uploaded on the website forthwith.

JANUARY 23, 2024/ns

SWARANA KANTA SHARMA, J

[Click here to check corrigendum, if any](#)