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

+ **BAIL APPLN. 491/2024**

MEHTAB @ SOAIB

..... Petitioner

Through: Mr. S.S. Rawat and Mr. Narender
Kumar, Advocates.

versus

THE STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Shubhi Gupta, APP for the State
with SI Dinesh Tyagi, PS: Mayur Vihar.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

26.02.2024

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1. This is an application preferred on behalf of the Applicant Mehtab @ Soaib S/o Mohd. Irshad under Section 439 Cr.P.C. seeking regular bail, in case FIR No.179/2021 dated 09.04.2021 under Sections 308/34 IPC registered at PS: Mayur Vihar, Phase-I.
2. Status report is being filed on behalf of the State. As per the case of the prosecution, on 08.04.2021, a PCR call was received at PS: Mayur Vihar, whereafter statement of the Complainant Augustan Massey was recorded. As per the version of the Complainant, he and his daughter heard a commotion and went outside to check the reason thereof. They found that Complainant's mother Shakuntala and his son Rohit Massey were being assaulted by four persons identified as Javed, Mehtab @ Soaib (Applicant), Shaid Ahmed and Deepanshu @ Shanky and when the Complainant and his daughter made an attempt to intervene, one of the accused Javed struck the Complainant on his head with an iron rod. It is stated in the report that two of the accused Javed and the Applicant were apprehended at the spot while



the other two managed to escape. On 07.06.2021, anticipatory bail was granted to accused Shaid Ahmed and accused Deepanshu otherwise joined investigation. MLC of all the four injured persons was conducted and the nature of injuries has been opined to be simple. On 02.11.2023, NBWs were issued against the Applicant and on 05.12.2023, he was arrested and later sent to judicial custody. Charge has been framed under Sections 308/34 IPC against the Accused persons and the public witnesses are yet to be examined.

3. Learned counsel for the Applicant submits that the Applicant is innocent and has been falsely implicated. As per the MLC, the nature of injuries suffered by the victims is simple. Applicant was taken in judicial custody on 09.04.2021. He was released on interim bail under the HPC Guidelines and surrendered on time and never misused the liberty granted by the Court. Investigation is complete, charge sheet has been filed and charges have been framed. Therefore, custody of the Applicant is no longer required. Co-accused Javed and Shaid Ahmed have been released on bail and co-accused Deepanshu @ Shanky has been kept in column No. 12. It is a settled law that bail is the rule and jail is an exception. Applicant has clean antecedents and the jail conduct is 'satisfactory'.

4. Learned APP reiterates the stand of the State captured in the status report and opposes the bail application, while not disputing that the nature of the injuries as per the MLC suffered by the injured victims is simple.

5. Having heard the learned APP and the learned counsel for the Applicant, this Court is of the view that Applicant has made out a case for grant of regular bail. Investigation is complete and charges have been framed. Nature of injuries as reflected from the MLC has been opined to be



simple. Two co-accused, namely, Javed and Shaid Ahmed have been enlarged on bail and co-accused Deepanshu @ Shanky has been kept in column No. 12 in the charge sheet. It is a settled It is not the case of the State that the Applicant has criminal antecedents. Nominal roll indicates that jail conduct of the Applicant is 'satisfactory'. Applicant is a young boy aged 24 years. No recovery is required to be made from the Applicant and keeping him behind the bars will not serve any purpose. It is, therefore, directed that Applicant be released on regular bail during the pendency of the trial, subject to his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the learned Trial Court and further subject to the following conditions:-

- i. Applicant shall not leave the country without prior permission of the Trial Court;
- ii. He shall provide his mobile number to the IO concerned and keep the same active at all times and shall not change the number without prior intimation to the IO and the Trial Court;
- iii. He shall furnish his permanent residential address to the concerned IO and shall intimate the IO as well as the Trial Court by filing an affidavit regarding any change in his residential address;
- iv. He shall not indulge in any criminal activity or communicate with or come in contact with the Complainant/victims as well as the witnesses and/or any other person associated with the present case;
- v. He shall report to concerned IO once a month on every third Monday at 2:00 PM; and



- vi. He shall appear on every date of hearing before the Trial Court unless exemption is sought and granted by the Court on any given date.
6. It is made clear that nothing stated in this order shall tantamount to expression of an opinion on merits of the case.
7. Application stands disposed of.
8. Copy of the order be sent to the concerned Jail Superintendent for information and necessary compliance.

JYOTI SINGH, J

FEBRUARY 26, 2024/shivam/KA