



2024:DHC:4353



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on: 16.05.2024**Pronounced on: 28.05.2024*+ **BAIL APPLN. 654/2024 & CRL.M.A. 5744/2024****SHIVA PANDIT**

..... Petitioner

Through: Mr. K.K.Manan, Sr. Adv. with Ms. Udit Bali, Mr. Rahul Khan, Mr. Snehasish Pyne, Mr. Karmanya Singh Choudhary, Mr. Ritik and Mr. Anmol Saluja, Advs. Mr. Sandeep Sharma, Mr. C.M. Grover, Mr. Nikhil Mehta, Mr. Deepak Sharma, Mr. Satish Verma and Mr. Lavish Chandra, Advs.

versus

THE STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Mr. Raghuinder Verma, APP for State with Insp. Manish Kumar Police Station Anand Vihar.
Mr. Pradeep Teotia, Mr. Jayveer Singh and Mr. Muziburrahman, Advs. for complainant.

CORAM:**HON'BLE MR. JUSTICE VIKAS MAHAJAN****JUDGMENT****VIKAS MAHAJAN, J.**

1. The present petition has been filed by the petitioner under section 438 read with section 482 CrPC seeking anticipatory bail in connection with FIR

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No. 602/2023 under sections 307/323/341/506/34 IPC and section 27 of Arms Act, registered at P.S. Anand Vihar.

2. The case of the prosecution is that the present FIR was registered on the statement of the complainant-Gaurav s/o Bane Singh wherein he alleged that he used to park his tractor near the house of one Vishnu Pandit due to which the family members of Vishnu Pandit used to quarrel with him. About 08-10 days prior to the incident, Gaurav parked his tractor near the park, in front of the house of Vishnu Pandit because of which Love and Shiva Pandit – both grandsons of Vishnu Pandit, quarrelled and manhandled him, thereby threatening him of dire consequences.

3. He further stated that on the intervening night of 11/12.12.2023 at about 11:50 PM, the complainant and his brother Prem Singh @ Chirag were going towards Shanti Mukund Hospital to pick up their car and when they reached near Taj Sweets from Karkardooma village on the main road, the accused persons namely Love, Shiva, Dev and Keshav were already standing there and obstructed the way of the complainant, which led to a quarrel between them whereby Love Pandit hit the complainant with a wooden *danda* on his head and when the brother of the complainant namely, Prem Singh Rathore tried to intervene, Shiva took out a pistol and pointed the same at Prem's temple with an intention to kill him and gave strong blows with the butt of the pistol which led to bleeding from the nose of Prem. Thereafter Dev Sharma hit him on the head and when they tried to escape, Keshav caught hold of the brother of the complainant and strangulated him.

4. The complainant also tried to save his brother but Keshav started kicking him, Dev and Love kept on beating him with sticks and Shiva kept

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on threatening them with a pistol in his hand. On hearing their noise, one neighbour Amit got them released and the PCR call was made.

5. Mr. K.K. Manan, learned Senior Counsel for the petitioner, at the outset submits that the petitioner has been falsely implicated in the present FIR. The name of the petitioner is mentioned in the FIR just because there is previous enmity between the families of the complainant and the petitioner and other co-accused persons. To buttress his contention, Mr. Manan has placed reliance on the anticipatory bail order of the co-accused Keshav Pradhan, passed by the learned ASJ, wherein it is mentioned that *“there was no head injury in the CT Scan of the head and therefore, the allegations in the complaint/FIR that injured Prem Singh Rathore was mercilessly beaten with dandas and iron rods is not corroborated with the medical documents”*.

6. Learned Senior Counsel for the petitioners contends that a CCTV camera was also installed outside the house of the applicant which shows that the applicant had not come out from his house at the time of the incident. The said DVR containing CCTV footage was also provided to the IO but the IO has not produced the said CCTV footage. He further submits that a CCTV camera was also installed at the Taj Sweets i.e., near the place of incident but the IO has deliberately not placed the same on record in order to shield the real culprits.

7. *Per contra*, the grant of anticipatory bail is opposed by the learned APP for the State, as well as, by the learned Counsel for the complainant, who have argued on the lines of the status report.

8. On a query posed by the Court, the learned APP states that the MLC by which the complainant was treated at Dr. Hedgewar Hospital Delhi was obtained in which the Doctor had opined the nature of injury as simple and



the result of the MLC of the brother of the petitioner Prem Singh is still awaited.

9. After the arguments were heard and the judgment was reserved, the present matter was again listed upon mentioning by the learned counsel for the petitioner on 16.05.2024. The learned counsel for the petitioner pointed out that during the pendency of the present petition, the IO concerned had moved an application before the learned Trial Court seeking issuance of process against the present petitioner under Section 82 CrPC. Simultaneously, the petitioner also moved an application seeking cancellation of non-bailable warrants issued against him. Prior to filing this application, the petitioner had also made an application dated 25.04.2024 to the SHO, PS Anand Vihar, Delhi volunteering that he wishes to join the investigation.

10. The learned Trial Court on the application filed by the petitioner seeking cancellation of NBWs, sought reply from the SHO concerned and in response it was stated by the SHO that the petitioner/accused came to the police station to join investigation and submitted his representation on 12.05.2024.

11. Considering the fact that the petitioner had joined investigation, the learned Trial Court disposed of the application of the IO seeking issuance of process under Section 82 CrPC as having been rendered as infructuous.

12. *Vide* order dated 16.05.2024 of this Court, the order of the learned Trial Court dated 14.05.2024 and the application made by the petitioner/accused dated 25.04.2024, were taken on record.



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13. It is not in dispute that the co-accused namely Keshav Pradhan and Love Pandit have already been granted regular bail by the learned Sessions Court.

14. Considering the fact that opinion of the Doctor so far received on the injury suffered by the victims has been opined to be simple in nature and the NBWs issued against the petitioner have already been stayed *vide* order dated 26.02.2024 and the petitioner has joined investigation on 12.05.2024, which fact has been noted by the learned Trial Court in its order dated 14.05.2024 and further regard being had to the fact that the antecedents of the petitioner are clean, it is directed that in the event of petitioner's arrest, he may be released on bail, subject to his furnishing a bail bond in the sum of Rs 25,000/- to the satisfaction of Arresting Officer/IO and further subject to the condition that they will join the investigation as and when directed by the IO concerned.

15. It is made clear that the observations made herein are only for the purpose of considering the bail application and the same shall not be deemed to be an expression of opinion on the merits of the case.

16. The petition along with pending applications, if any, stands disposed of.

17. Order be uploaded on the website of this Court.

18. Order *dasti* under the signatures of the Court Master.

VIKAS MAHAJAN, J.

MAY 28, 2024
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