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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 941/2024**

MOHD FAIZAN@SAMEER Applicant
Through: Adv. Vandana
Dhoundiyal, Adv. Rohit
Baisla & Adv. Saukabh A.
Pandey.

versus

THE STATE GOVT OF NCT OF DELHI Respondent
Through: Mr. Pradeep Gahalot, APP
for the State along with
Adv. Anuranjan Arya.
SI Akash Deep, PS
Kotwali.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
04.04.2024

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1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No. 812/2023 dated 17.09.2023 under Sections 308/341/34 of the Indian Penal Code, 1860 registered at Police Station Kotwali.
2. The FIR was registered on a complainant given by the victim, alleging that he was beaten by the applicant and his brother.
3. It is stated that the elder brother of the complainant / victim, on 16.09.2023 at around 11:00 p.m., had gone to get a shave at a newly opened barber shop, by their uncle, in the vicinity, where a verbal spat between the elder brother of the complainant / victim and the applicant had taken place. The same was settled with the invention of neighbouring shopkeepers.

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4. It is alleged that, the complainant / victim after having dinner had gone for a walk, at around 12:15-12:30 a.m. midnight, in the alley where he was caught hold by the present applicant and his brother and he was given beatings. It is stated that the complainant / victim was taken to Aruna Asif Ali hospital for treatment.

5. The learned Counsel for the applicant submits that the FIR was registered under Sections 324/341/34 of the IPC and the Section 308 of the IPC was subsequently added in the chargesheet. He submits that the applicant was arrested on 18.11.2023, that is, after two months from the date of registration of FIR.

6. He submits that no recovery was made at the instance of the present applicant and he is neither seen in the CCTV footage nor the nature of weapon used could be ascertained from the said footage.

7. He submits that the complainant / victim was discharged from the hospital the very same day and as per the MLC the nature of injuries inflicted are opined to be 'simple' in nature.

8. He submits that the applicant is 28 years of age; is in custody since 18.11.2023, with no criminal antecedents, belonging from poor *strata* of the society and was working as an online food delivery agent before his arrest. Applicant is the sole earning member of the family.

9. The learned Additional Public Prosecutor for the State opposes the grant of present bail application. He submits that the allegations in the present case are serious in nature and the present applicant was actively involved in the commission of the offence.



10. He submits that the although the nature of injuries is opined as simple in nature but the nature of object used is “Sharp Weapon” and the injuries were inflicted upon vital parts of the body of the complainant.

11. He submits that the role assigned to the present applicant was that he was the one who had inflicted injuries on the chest and head of the complainant / victim.

12. He submits that the alleged CCTV footage obtained also shows that there was a scuffle between the accused persons and the complainant.

13. He submits that the applicant was arrested in the present case on 18.11.2023, only after the present applicant and one other person, namely Mohd. Farheed Siddiqui, were apprehended on the street with two button knives, alongwith one other person namely Sakib, who ran away from the spot, allegedly trying to threaten the witnesses. In this regard an FIR bearing number 824/2023, under Sections 506/195-A/34 of the IPC and Sections 25 of the Arms Act was registered against them.

14. I have heard learned counsel for the parties.

15. It is not denied that the complainant and the applicant / accused were known to each other and the alleged incident arises out of a quarrel that took place between the complainant and the applicant and the other co-accused person.

16. The allegation against the present applicant is that he had inflicted injuries on the complainant. In the present circumstances, it cannot be said with certainty that the applicant was aware that the victim would be injured in the manner that has been alleged.

17. The chargesheet has already been filed in the present case and the investigation is complete. The applicant is not required to

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be in custody to aid any further investigation. The nature of the injuries is also stated to be simple.

18. It is though alleged that another FIR was registered against the applicant when he was trying to threaten the witnesses. The law in relation to the said FIR will take its own course and appropriate conditions can be put to allay any fear of threatening the witnesses.

19. It is a settled principle of law that bail is the rule and jail is an exception. The speedy trial in the present case does not seem a possibility. The object of the jail is to secure the appearance of the accused during the trial and it is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment without the guilt being proved.

20. The applicant belongs to a poor strata of society and stated to be the sole bread earner from the family and also has a five year old child to take care of. The applicant, prior to his arrest, was working as a food delivery boy. No purpose would be served by keeping the applicant in further custody.

21. Without commenting further on the merits of the present case and keeping in mind the facts and circumstances of the case, I am satisfied that the applicant has made out a case for grant of regular bail. The applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/-, with two sureties of the like amount to the satisfaction of the learned Trial Court/ Duty Metropolitan Magistrate, subject to the following conditions:

- a. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;



- b. He shall under no circumstance leave the Country without the permission of the learned Trial Court;
- c. He shall appear before the learned Trial Court as and when directed;
- d. He shall, upon his release, provide the address where he would be residing after his release and shall not change the address without informing the Investigating Officer/ SHO concerned; and
- e. He shall, upon his release, provide his mobile number to the Investigating Officer/ SHO concerned, and shall keep it switched on at all times.

22. In the event of there being any FIR/ DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

23. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the Trial and not be taken as an expression of opinion on the merits of the case.

24. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

APRIL 4, 2024

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