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

+ **BAIL APPLN. 1456/2024**

VIKAS SINGH

..... Petitioner

Through: Mr. Sajan K. Singh and Ms. Sangeet
Singh, Advocates

versus

STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for
State.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

27.05.2024

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1. This application has been preferred on behalf of the applicant Vikas Singh S/o Sh. Keshri Singh, under Section 439 Cr.P.C. read with Section 482 Cr.P.C. seeking regular bail in case FIR No.740/2023 dated 26.11.2023 under Sections 308/323/506/427/34 IPC registered at PS: Swaroop Nagar. Sections 325/147/148/149 IPC were added in the charge sheet.
2. Status report has been filed on behalf of the State. Case of the prosecution is that on 25.11.2023, a PCR call vide DD No.138A regarding quarrel of 50-60 persons at Gali No.16, Swaroop Nagar, Delhi, was received and the same was marked to SI Ramavatar. On receiving this, SI Ramavatar reached the spot and found that total 8 injured persons including one minor girl aged 13 years had been sent to BJRM Hospital by CAT Ambulance and present FIR was registered on the statement of complainant Dinesh and investigation was taken up.



3. During the course of investigation, it was revealed that complainant who was a taxi driver had on 25.11.2023, parked his taxi in front of his house in Gali No.16, Swaroop Nagar, Delhi. At about 10:30 PM, he went to take some medicines and found three boys standing near his car, one of them being the applicant. He noticed that one of them had damaged the wiper of the car and requested them not to cause any further damage, on which they abused the complainant and started beating him. Complainant called his brother and the matter was amicably resolved. 5-10 minutes later, accused persons came back, carrying *dandas*, bricks and one of them was carrying a sword. They started beating the complainant and his other family members and damaged two vehicles of the neighbours also. Applicant and co-accused Keshri Singh were arrested on 26.11.2023 and sent to judicial custody.

4. It is further stated in the status report that all the residents of the colony submitted a joint complaint against the accused persons complaining that they were habitual offenders and often created nuisance in the locality. Applicant was previously involved in case FIR No. 567/2020 under Sections 323/341 IPC, PS: Swaroop Nagar. During investigation, broken pieces of bricks and a hockey stick were recovered from the place of incident, which were seen in the hands of the accused persons in the CCTV footage. Co-accused Keshri Singh was seen in the footage carrying one sword in his hand while applicant was seen carrying a *danda* and throwing bricks. As per the MLC of the victims, grievous injury was caused to complainant, Anil and Laxmi. Total 8 persons were injured including a minor girl of 13 years. Charge sheet has been filed against the applicant and Keshri Singh.

5. Learned counsel for the applicant argues that the genesis of the FIR is a scuffle that broke out between the two neighbors residing closely in Gali



No. 16, Swaroop Nagar. Complainant and his brother Anil and brother-in-law are all in taxi business and parked their taxis in the narrow lane, a few feet wide causing restriction in movement of the other residents and their vehicles. The applicant and his father had objected to the parking on a number of occasions. Even on 25.11.2023, the minor scuffle was on account of the parking of the taxi in the common gali and in fact, applicant's father Keshri Singh had also called the Police on helpline number as the complainant had raised his hand on him. Family members of the complainant were the ones who threw broken pieces of bricks and small stones on the applicant and his father and their splendor bike was completely damaged, which is fortified by the photographs on record. However, the entire blame has been falsely put on the applicant and his father.

6. It is further argued that on 26.11.2023, the Police took the applicant and his father to the Police station without any investigation in the matter and/or taking action on the complaint made by Keshri Singh. Applicant is in judicial custody since 26.11.2023. Charge sheet has been filed and investigation stands concluded. Police has recorded the statements of two independent witnesses under Section 161 Cr.P.C., who have not corroborated the case of the complainant. Applicant is only 25 years of age and was blessed with a child on 08.01.2024 and there is nobody to take care of his family. Going by the prosecution case also, ingredients of Section 308 IPC are not made out against the applicant, without prejudice to the contention that he is innocent and has been falsely implicated.

7. Learned APP for the State opposes the application relying on the Status Report and submits that the allegations against the applicant are serious and grave. In the quarrel between the parties, a total of 8 persons



were injured, out of which 3 suffered grievous injuries as per the MLC and the injured included a 13 years old child. Applicant has no right to claim that he must be released on bail only because the charge sheet has been issued as charges are yet to be framed and thereafter, the complainants and other material witnesses will be examined.

8. Heard learned counsel for the applicant and learned APP for the State.

9. Perusal of the contents of the FIR reveal that the genesis of the FIR is a parking dispute between neighbours living closely in a locality. Applicant and the complainant seem to be in a common business of running taxies and on the date of the incident, the trigger of the fight was the parking of the taxi of the applicant in front of his house. It appears that a heated argument which started on account of damage to the wiper of the complainant's taxi escalated into a physical fight with *dandas* etc. and damage to each other's car. CCTV footage of the area has been retrieved and the alleged weapon of offence i.e. the *danda* was recovered from the applicant and the sword from co-accused Keshri Singh. Charge sheet has been filed and investigation stands concluded. None of the offences allegedly committed by the applicant as per the FIR and charge sheet are punishable with imprisonment of more than 7 years and thus the applicant is entitled to regular bail following the binding dictum of the Supreme Court in ***Satender Kumar Antil v. Central Bureau of Investigation and Another, (2022) 10 SCC 51.***

10. Nominal Roll dated 09.05.2024 indicates that applicant is in judicial custody since 26.11.2023. His overall jail conduct is satisfactory and he has clean antecedents. Applicant is 25 years of age blessed with a child on 08.01.2024. Our criminal justice system is edified on reformation rather than being punitive. Till proven guilty, presumption of innocence is attached



with an accused. It is not the case of the State that the applicant is a flight risk or that there are chances of his tampering with evidence or intimidating the witnesses. Prosecution has cited 21 witnesses and the trial is not likely to conclude soon, as till date even charges have not been framed.

11. Considering the aforesaid facts and circumstances, the application is allowed and it is directed that the applicant be released on regular bail, subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the learned Trial Court and further subject to the following conditions:

- (1) Applicant will not leave the country without prior permission of the Trial Court;
- (2) He shall furnish his permanent residential address to the IO and shall intimate the Court by way of an affidavit and the IO regarding any change in the residential address;
- (3) He shall provide his mobile number to the IO concerned and keep the same active at all times and the mobile number shall not be changed without prior intimation to the IO;
- (4) He shall appear before the Trial Court, as and when the matter is taken up for hearing; and
- (5) He shall not indulge in any criminal activity directly or indirectly and will make no attempt to contact the victims and/or other witnesses associated with the case.

12. It is made clear that nothing stated in this order shall tantamount to expression of an opinion on merits of the case.

13. Application stands disposed of.



14. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

MAY 27, 2024/kks/shivam

JYOTI SINGH, J