



2024 : DHC : 3442



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

Date of decision: 30.04.2024

+ CRL.M.C. 3387/2024

RAHUL KASHYAP

..... Petitioner

Through: Mr.Abhinav Sharma &
Ms.Simran Khurana, Advs.

versus

STATE (NCT OF DELHI) & ORS.

..... Respondents

Through: Mr.Satinder Singh Bawa, APP.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

CRL.M.As. 13019-20/2024 (Exemption)

1. Allowed, subject to all just exceptions.

CRL.M.C. 3387/2024 & CRL.M.A. 13018/2024

2. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') praying for setting aside of the orders dated 01.12.2023 passed by the learned Additional Sessions Judge (SC-RC), South East District, Saket Courts, New Delhi (Bail Roster Bench) in Bail Application(s) no. 3677/2023, 3701/2023, 3702/2023, 3703/2023, 3745/2023 and 3746/2023, granting anticipatory bail to respondent nos.2 to 7 in FIR No. 421/2023 dated 17.11.2023 registered under Sections 308 and 34 of the Indian



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Penal Code, 1860 (in short 'IPC') at Police Station: Sunlight Colony.

3. The above FIR has been registered on a complaint filed by the petitioner herein, stating that on 11.11.2023 at about 5:00 PM, on the occasion of *Diwali*, he was putting up lights on the main wall of the gate of his residence. His uncle (*Chacha*) along with his three sons and aunt (*Chachi*) came out from their house and asked the petitioner not to put up the lights. On this issue, both parties started to fight. Hearing the voices of fighting, the two brothers of the petitioner also came out of the house. The petitioner claims that during the fight, the three sons of his uncle, that is, Mayank, Abhishek and Nitin, went in and brought sticks/*lathis/dandas* from their house and started beating the petitioner, because of which he suffered injuries and fell down on the ground. The petitioner further states that his neighbour Sanjay and brother of Sanjay, that is, Neeraj, also brought *dandas/lathis* and started beating the petitioner. His brother Rohit was also beaten by Sanjay, Neeraj, Nitin, Abhishek and Mayank. His elder brother Yogesh tried to intervene, however, while trying to pacify the matter, he also suffered injuries. The petitioner claims that his uncle caught hold of his hair and started dragging him while the others were beating him. The petitioner claims that he ran away on a scooty of a neighbour, whereafter he called the police. He went to AIIMS trauma centre and got his MLC done.



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4. He further claims that thereafter he came back on 12.11.2023 and gave his written statement to the Investigating Officer on 13.11.2023. He claims that his brothers, namely Rohit and Yogesh Kashyap, followed up with the Police regarding the same. However, the same was taken only on 17.11.2023 by the police and subsequently the FIR was registered against the accused persons under Sections 308/34 of the IPC on the same day.

5. The learned counsel for the petitioner submits that the accused have been wrongly granted anticipatory bail by the learned Additional Sessions Judge, without appreciating the nature of the injuries suffered by the petitioner. He submits that delay in registration of the FIR was for reasons not attributable to the petitioner. In fact, the petitioner wanted to have the FIR registered, however, the police was not cooperating and was not registering the FIR, even after the written statement of the petitioner was given to the police on 13.11.2023, and constant follow ups.

6. He further submits that for two of the applicants/accused persons, the petitioner was not even supplied with the copies of the bail applications. He, however, fairly admits that for the other accused persons, the petitioner had been served with the copies of the application and has also been heard on all the applications before the passing of the Impugned Order.

7. He submits that two of the accused persons were not granted *interim* protection by another learned Additional



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Sessions Judge when their applications for anticipatory bail were listed before that Court. However, thereafter their matters were transferred and the incumbent Presiding Officer granted them anticipatory bail.

8. I have considered the submissions made by the learned counsel for the petitioner.

9. In the present case, the parties, that is, the petitioner and the accused, are family members. Even as per the complaint of the petitioner, the incident seems to have stemmed up from a minor dispute about putting up lights on the festival of *Diwali*.

10. Copy of the order dated 21.11.2023 passed by the learned Additional Sessions Judge, South – East District, Saket Courts, New Delhi, in Bail Matter no. 3677/2023, titled ***State v. Sanjay Kumar***, shows that before the learned Additional Sessions Judge, the petitioner had played a video of the incident. The learned Additional Sessions Judge on watching the video, observed as under:-

“6. In the Court, complainant Rahul is present and has played a video of the incident in which family members, including women from both sides are seen quarreling over lighting of home on Deepawali festival. In the video, neither side is carrying a stick or weapon. Applicant/accused Sanjay Kumar is not seen in the video that allegedly captured initial trigger point of physical assault.”

11. By the Impugned Order, the learned Additional Sessions Judge, taking note of the judgment of the Supreme Court in



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Sanjay Chandra v. CBI, 2011 SCC OnLine SC 1502, which holds that deprivation of liberty must be considered a punishment, unless it is required to ensure attendance of the accused during trial; that the parties are relatives as well as neighbours; that there is previous litigation between the parties; and that no stick/danda/lathies had been recovered from the possession of the accused till date, granted anticipatory bail to the accused persons.

12. The Impugned Order was passed on 01.12.2023, while the present petition is filed only on 25.03.2024. Thereafter, also there was no urgency shown to have the petition listed. The same has been listed for the first time before this Court only today. It appears that the petitioner is only interested in settling his score with the accused.

13. Custodial interrogation of the accused is not required in such circumstances. The purpose of taking a person in custody is not to punish the person without trial, but to only ensure one's presence during trial.

14. As far as the plea of the learned counsel for the petitioner that for two of the accused persons, the applications for bail were not served upon him, I find that the petitioner had been served with the applications filed by the other accused persons and those applications were listed before the learned Court on the said date for hearing. The petitioner has also been heard by the learned ASJ on the Bail Applications filed by all the



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accused. Therefore, no fault can be found with the learned Court proceeding to decide on the applications together.

15. On the plea of the petitioner that for two of the accused persons, *interim* protection was not granted, it is noticed that the *interim* protection was not granted by an order dated 30.11.2023. It appears that the reason was, that on the very next day, the applications were listed before the appropriate Court for consideration. Be that as it may, this cannot be a ground to cancel the anticipatory bail which has been granted to the accused persons after considering the merits of the case.

16. Keeping in view the above, I find no merit in the present petition. The same is dismissed.

17. Any observation made in the present order shall, in no manner, prejudice the case of the prosecution in the above FIR.

NAVIN CHAWLA, J

APRIL 30, 2024/rv/am

Click here to check corrigendum, if any