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

+ **BAIL APPLN. 1611/2024 & CRL.M.A. 14045/2024 (exemption)**

NAMAN KHANDUJA

..... Petitioner

Through: Mr. Vikram Singh Nayal, Mr. Rohit Singh, Mr. Prince Kumar, Mr. Sujit Kumar, Mr. Pawan Mehta and Mr. Mukesh Kumar, Advocates.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Hemant Mehla, APP for the State with Ms. Mridul Sharma, Advocate. ASI Naresh and SI Anup Rana, PS Paschim Vihar West.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

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14.05.2024

1. The present application under Section 439 of the Cr.P.C. seeks regular bail in case FIR No. 392/2024, under Sections 308/506/34 of the IPC, registered at P.S. Paschim Vihar West.
2. Status report authored by Insp. Anil Sharma, SHO/PS Paschim Vihar West has been handed up in Court and the same is taken on record.
3. The case of the prosecution as per the status report is as under:-
“1. That on 14.04.2024, vide D.D No. 106A, a PCR call was received at PS and the same was marked to ASI Naresh for necessary action. On receipt of the same, the police staff reached at spot i.e Near Flat No. 23-24 Jahaj Apartment Paschim Vihar New Delhi where it was found that injured Mohit Sharma along with his family member went to hospital. After that police staff apprehended the alleged persons namely Aman Khanduja and Naman Khanduja and took them to police station. Later, an information was received at PS, vide D.D No. 120 A, regarding the



MLC No. 267/24 of Mohit Sharma, on which , police staff reached hospital where injured Mohit Sharma was found under treatment. Doctor mentioned the alleged history as physical assault on residence society, type of injury as blunt and nature of injury was kept pending. On the statement of Mohit Sharma a case, vide FIR No. 392/24 U/s 308/506/34 IPC was registered and investigation was taken up.

2. In the statement, the complainant alleged that on 14.04.2024, at about 10 PM, he along with his mother namely Suman Sharma was coming back to home in his car. When he entered in the society gate alleged Aman Khanduja came in front of his car and intentionally started walking slowly in front of car. Complainant requested him not to do such act. Thereafter that he reached at his residence and made a call to remove a scooty to park his car. After that the alleged Aman Khanduja came close to his car and punched on driver side window glass. When he came out of his car, alleged Aman Khanduja started manhandling with him and subsequently his brother Naman Khanduja also came and hit the complainant repeatedly on his head with a stick and caused injuries to complainant. Alleged person also extended life threat to the complainant. Alleged Naman snatched the stick from the complainant's mother and threw out of the society.

3. During the course of investigation, on 15.04.2024, both the accused persons namely Aman Khanduja and Naman Khanduja were arrested. Furthermore, the weapon of offence i.e wooden stick was also recovered on the instance of accused Naman Khanduja. Both the accused persons were produced before Hon'ble Tis Hazari Court and sent to judicial custody.

4. Further, the final opinion on MLC No. 67/34 was obtained from Pushpanjali Hospital, Minyawali Nagar, New Delhi wherein Dr. Opined the nature of injury as "simple". During the investigation, blood sample of complainant was taken and same was deposited in PS Malkhana. Accused Aman Khanduja is on court bail. The investigation of the case is under progress and yet to be completed."

4. Learned counsel appearing on behalf of the applicant submits that the latter is a student who has been in custody since 15.04.2023. It is further pointed out that as per the case of the prosecution, injury received by the complainant was simple in nature. It is submitted that the present applicant had come later on the spot as the complainant was manhandling the



applicant's brother. It is further submitted that the applicant is falsely implicated in the present case and the applicant is ready and willing to abide by any condition this Court may deem fit. It is pointed out that no notice under Section 41 of the CrPC was given to the present applicant. It is further pointed out that the present applicant has no previous involvement in any other case.

5. *Per contra*, learned APP for the State submits that the allegations in the present FIR with respect to the present applicant are that he hit the complainant repeatedly on his head with a stick.

6. Heard learned counsel for the parties and perused the record.

7. On a pointed query, on instructions from the Investigating Officer, learned APP for the State submits that no notice under Section 41 of the CrPC was given to the present applicant.

8. The present FIR was registered under Sections 308/506/34 of the IPC, however, as per the status report as pointed out hereinabove the injury is simple in nature. Applicant is in judicial custody since 15.04.2023 and co-accused of the present applicant has already been on court bail.

9. In view thereof, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 25,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.



- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
10. The application is allowed and disposed of accordingly.
11. Pending application(s), if any, also stand disposed of.
12. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.
13. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
14. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MAY 14, 2024/sn

Click here to check corrigendum, if any