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

+ **BAIL APPLN. 1749/2024 & CRL.M.A. 15132/2024**

AMIT THAKUR

..... Applicant

Through: Mr. Rizwan Khan, Adv.
(through VC)

versus

STATE

..... Respondent

Through: Mr. Satinder Singh Bawa,
APP for the State wit SI
Sunder Pal, PS Sangam
Vihar.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

16.05.2024

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1. The present application is filed under Section 438 of the Code of Criminal Procedure, 1973 ('CrPC') seeking pre-arrest bail in FIR No. 251/2024 dated 18.04.2024, registered at Police Station Sangam Vihar, for offences under Sections 195A/308/34 of the Indian Penal Code, 1860 ('IPC').

2. The FIR was registered on a compliant given by the victim, who alleged that the accused Ajju along with the other co-accused persons, including the applicant, had beaten him and caused serious head injury.

3. It is alleged that the accused persons were pressurising the victim who stood as a witness in another FIR, being FIR No. 437/2021, registered at Police Station Sangam Vihar, and had given a statement against one person, namely, Sajid. The accused Ajju is the brother of Sajid. When the victim refused, the accused

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Ajju along with other co-accused persons, including the applicant, gave him beating. The accused Ajju also allegedly struck the victim with a beer bottle.

4. The learned counsel for the applicant submits that the only allegation against the applicant is that he was present at the place of incident when the main accused Ajju struck the victim with the beer bottle.

5. I have gone through the statement given by the victim under Section 161 of the CrPC. Specific allegation has been made that when the victim refused to follow the instruction of the accused Ajju, all the accused persons along with the applicant had beaten the victim and had thrown him in a drain.

6. Serious allegation has been made in the present case. The victim is stated to be witness in another FIR and the accused persons, in the manner as alleged, had tried to threaten and influence the witness.

7. The allegations, at this stage, cannot be termed to have been made to falsely implicate the applicant or to injure or humiliate the applicant.

8. It cannot be said that the custodial interrogation of the applicant is not required.

9. It is also pointed out by the learned Additional Public Prosecutor for the State that the notice to join investigation was given to the applicant but he failed to join the same.

10. The order under Section 438 of the CrPC cannot be passed so as to allow the accused to use the same as a shield.

11. The investigation is at a nascent stage.

12. Considering the gravity of the offence and that specific role has been alleged against the applicant, it cannot be denied



that the applicant, if granted bail at this stage, would be a serious threat to the complainant.

13. In view of the above, this Court finds no reason to exercise jurisdiction under Section 438 of the CrPC and grant pre-arrest bail to the applicant.

14. The present bail application is, therefore, dismissed. Pending application(s) is also disposed of.

AMIT MAHAJAN, J

MAY 16, 2024

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