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

+ **BAIL APPLN. 1881/2024**

RAKESH KUMAR

..... Petitioner

Through: Mr. Rohit Oberoi, Mr. Umang Bhatia,
Advs.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for
State with SI Sohan Lal, PS Tigri.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

03.06.2024

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1. The present application has been filed on behalf of petitioner for grant of Anticipatory Bail under Section 438 Cr.P.C.
2. The facts in brief are that a FIR bearing No. 138/2024 was lodged on the statement of the complainant, Mr. Ramesh Chauhan S/o Vishal Singh registered at PS Tigri, Delhi alleging therein that on 06.03.202 at about 7:30pm when he was sitting in his office situated at Sangam Bihar, Delhi when his neighbour Gugloo S/o Prempal was walking his dog. Subsequently, Gugloo's dog passed a stool in front of the complainant's office leading him to request Gugloo to not let his dog pass stools in front of his office. As per the status report, this angered Gugloo, who then began to abuse the complainant and urged his dog to bite and claw the complainant. Moreover, it is alleged that later,



Gugloo and his brother Balram, Rakesh, Swaraj, Ram Singh @Ramu and his father Prempal attacked the complainant and his son Prempal, Dileep and Prashant with wooden sticks and a knife causing them serious injuries.

3. Learned counsel for the petitioner submits that the petitioner has been wrongly named in the FIR. It has further been submitted that even in the statements of witnesses recorded under Section 161 Cr.P.C., the petitioner is not even named.
4. Learned counsel for the petitioner submits that it is a case of false implication, and the petitioner may be granted Anticipatory Bail.
5. Learned counsel submits that in fact other co-accused are his father and brothers and the complainant therefore has falsely named the petitioner in the FIR.
6. Learned APP for the State submits that the status report is ready. However, cannot be placed on record.
7. Let the status report be placed on record.
8. Learned APP submits that during the investigation, it has been found that co-accused Guggul along with his brothers reached the office of the complainant and attacked the complainant with sharp edged steel pipes. In this, Dilip and Prashant were also injured.
9. Learned APP for the State submits that the weapon i.e. sharp edged steel pipes that were used in attacking the complainant has been recovered from the possession of accused. It has further been submitted that co-accused Rakesh, Prempal and Ram Singh @ Ramu are absconding. Moreover, It is submitted that NBWs have already been issued against them.



10. The present bail application has been vehemently opposed by the learned APP for the State. It is a settled preposition that the Court exercising its jurisdiction under Section 438 Cr.P.C. is to do so sparingly only in the cases where there is a possibility of misuse of the system. Though the grant of anticipatory bail is on the discretion of the court, such discretion must be exercised judiciously taking into consideration relevant facts such as the nature and gravity of the offense and the role attributed to the applicant. The criteria for grant of Anticipatory Bail has well been laid down in ***Shri Gurbaksh Singh Sibbia And Others v. State Of Punjab*** (1980) 2 SCC 565 wherein it was interalia held as under:

“31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the Court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a



reasonable apprehension that witnesses will be tampered with and “the larger interests of the public or the State” are some of the considerations which the Court has to keep in mind while deciding an application for anticipatory bail.”

11. The facts in the present case are very alarming where the complainant has alleged that the present petitioner along with other persons came to his office armed with sharp edged weapons and assaulted him and two other persons namely Dilip and Prashant.
12. The co-accused persons are still absconding.
13. I consider that grant of anticipatory bail in such cases are not warranted.
14. In view of the above, the present application stands dismissed.

DINESH KUMAR SHARMA, J
(VACATION JUDGE)

JUNE 3, 2024/AR..