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

+ **BAIL APPLN. 3286/2023**

KAMAL SINGH

..... Applicant

Through: Adv. Yogesh Gaur & Adv.
Seema Saini.

versus

THE STATE (GOVT. OF NCT OF DELHI) & ANR.

..... Respondents

Through: Mr. Pradeep Gahalot, APP
for the State along with
Aditya Rathi, Adv.

+ **BAIL APPLN. 3386/2023**

NEERAJ KUMAR

..... Applicant

Through: Adv. Yogesh Gaur & Adv.
Seema Saini.

versus

THE STATE (GOVT. OF NCT OF DELHI) & ANR.

..... Respondents

Through: Mr. Pradeep Gahalot, APP
for the State along with
Aditya Rathi, Adv.
SI Mukesh, PS Preet
Vihar.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

20.03.2024

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1. The present applications are filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail in FIR No. 269/2023 dated 29.07.2023, registered at Police Station Preet Vihar, for offences under Sections 308/365/394/377/506/34 of the Indian Penal Code, 1860.

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2. It is alleged that the complainant was invited by a girl, namely, Sakshi, who he had met on Bumble Dating App, to meet him at Preet Vihar Metro Station. It is alleged that Sakshi then took the complainant to a club, where she placed an order for wine and food, and left without paying. It is alleged that before leaving, Sakshi said something to a girl standing on the counter, namely, Anjali. It is alleged that thereafter the waiter demanded an exuberant amount of ₹2,600/- from the complainant. When the complainant objected to the same, co-accused Anjali allegedly brought four to five people, including the applicant Neeraj, who forcibly hushed the complainant out of the bar and beat him. It is alleged that subsequently, the accused persons, including the applicant Neeraj, were further joined by ten to twelve assailants.

3. It is alleged that some of the assailants, including the applicant Kamal, forcibly took the complainant in their car to a park near Hedgewar hospital at the instance of the alleged kingpin, that is, Dinesh *alias* Vicky. It is alleged that co-accused Dinesh snatched ₹8,000/- from the complainant and the other assailants forcefully snatched the car keys and mobile phone of the complainant. It is alleged that some of the assailants, including the applicant Neeraj, attempted to strangle the complainant.

4. It is alleged that the assailants, except applicant Kamal, thereafter took the complainant to the Upper Ganga Canal, Meerut, where he was assaulted with belts and sticks. It is also alleged that the assailants inserted their penises in the mouth of the complainant. The assailants also compelled the complainant to say on video that he had stolen some things from the cafe owned by co-accused Dinesh.



5. It is alleged that the complainant was ultimately dumped by the assailants near Swami Vivekanand Girls College, Vivek Vihar, whereafter he was admitted at Hedgewar Hospital for treatment.

6. It is pointed out that Mr. Kamal Singh, the applicant in BAIL APPLN. 3286/2023, was granted interim protection by this Court by order dated 27.09.2023.

7. It is also relevant to note that Mr. Neeraj Kumar, the applicant in BAIL APPLN. 3386/2023, was granted interim protection by this Court by order dated 09.10.2023.

8. It is an admitted case of the prosecution that the accused persons were acting at the instance and instruction of the alleged kingpin in the present case, that is, accused Dinesh *alias* Vicky.

9. The applicant Neeraj was admittedly an employee at the club, run by the co-accused / kingpin Dinesh *alias* Vicky, where the alleged altercation started.

10. The learned counsel for the applicants submits that the applicant Kamal was coincidentally meeting his friend, co-accused Pankaj, at the club at the time of the incident.

11. It is not disputed that co-accused Dinesh *alias* Vicky, who allegedly guided the assailants through phone as to how the complainant was to be assaulted and kidnapped, has been granted bail by the learned Trial Court. The other co-accused persons, who have been alleged to have a similar, if not graver, role than that of the applicants, have also been admitted on bail.

12. It is also not denied that the orders granting bail to the alleged kingpin Dinesh *alias* Vicky and other co-accused persons have not been challenged by the prosecution.

13. The learned Additional Public Prosecutor for the State submits that even though the applicants have joined the BAIL APPLN. 3286/2023 & connected matter

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investigation, the applicant Neeraj is not handing over the car, temporarily registered in his name, that was captured on CCTV. He also submits that the applicants are also not disclosing the name of the other persons involved in the offence.

14. It is not disputed that the car that was used to forcibly take the complainant to the park near Hedgewar Hospital and thereafter to Upper Ganga Canal, Meerut and Swami Vivekanand Girls College has already been seized in the present case.

15. It is settled law that cooperating with investigation does not mean that the accused person has to confess to the crime alleged against him.

16. It is not in doubt that an order for bail cannot be passed in a routine manner so as to allow the accused to use the same as shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with arrest. In cases where the accused has joined investigation, is cooperating with the Investigating Agency and is not likely to abscond, custodial interrogation should be avoided.

17. The purpose of custodial interrogation is to aid the investigation and is not punitive. In the present case, this Court is not of the opinion that custodial interrogation of the applicants is specifically needed, especially when the alleged kingpin of the entire crime and other similarly placed accused persons have already been granted bail.

18. In view of the fact that co-accused persons have already been admitted on bail, this Court is of the opinion that no purpose would be served by allowing the custodial interrogation of the applicants.

19. It is directed that in the event of arrest, the applicants be released on bail on furnishing a personal bond of ₹20,000/- with
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two sureties of the like amount respectively, subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicants shall join and cooperate with the investigation as and when directed by the IO;
- b. The applicants will not leave the boundaries of Delhi without informing the IO/ SHO concerned;
- c. The applicants shall not contact the complainant / witnesses or tamper with the evidence in any manner;
- d. The applicants shall give their mobile number to the concerned IO/SHO and shall keep their mobile phones switched on at all times;
- e. The applicants shall give the details of their residence to the concerned IO/SHO, and inform them in case of any change.

20. The present applications are accordingly allowed.

21. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the Trial and also not be taken as an expression of opinion on the merits of the case.

22. A copy of the order be placed in both the matters.

AMIT MAHAJAN, J

MARCH 20, 2024

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