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

+ **BAIL APPLN. 2802/2024**

AKASH

.....Petitioner

Through: **Mr. Rohit Shukla, Mr. Vivek Kumar
Gaurav and Mr. Sunil Prajapati, Advs.**

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: **Mr. Aman Usman, APP with SI
Shubham, AATS / South East District.**

+ **BAIL APPLN. 2804/2024**

SACHIN KUMAR YADAV @ SACHIN

.....Petitioner

Through: **Mr. Rohit Shukla, Mr. Vivek Kumar
Gaurav and Mr. Sunil Prajapati, Advs.**

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: **Mr. Aman Usman, APP with SI
Shubham, AATS / South East District.**

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

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08.08.2024

CRL.M.A. 23495/2024 in BAIL APPLN. 2802/2024

CRL.M.A. 23541/2024 in BAIL APPLN. 2804/2024

Exemptions allowed, subject to just exceptions.

Applications stand disposed of.

BAIL APPLN. 2802/2024 and

BAIL APPLN. 2804/2024

1. Two separate applications under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') have been preferred on behalf of the



petitioners for grant of anticipatory bail in FIR No. 0291/2024, under Sections 109(1) (attempt to murder) / 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Section 27 of the Arms Act, registered at PS: Lajpat Nagar.

2. Issue notice. Learned APP for the State appears on advance notice and accepts notice.

3. In brief, as per the case of prosecution, present FIR was registered on 14.07.2024, on complaint of Varun, who alleged that on 13.07.2024 at about 05:00 PM, he along with Abhishek Sagar @ Katiya and Raghav had gone to Lajpat Nagar for installation of speaker in their Swift car. In the meantime, some persons came on motor cycle and scooty. Out of them, two persons were identified by him as Abhishek @ Pidli and Rohit Choudhary, while other accused had their faces muffled and were carrying sticks in their hand.

On seeing the aforesaid persons, Abhishek Sagar @ Katiya started running from the spot, but was followed by accused. In the meanwhile, complainant hid on the side of a vehicle. After accused had left, complainant reached the spot and saw Abhishek Sagar @ Katiya lying in an injured condition. Further, Abhishek Sagar @ Katiya informed that he had been attacked by Rohit Choudhary, Abhishek @ Pidli, Deepunshu Malik, Ajju and others and a gun shot was fired at him.

4. During the course of investigation, statement of Raghav Dua was recorded on 14.07.2024, who stated that petitioners (Akash and Sachin Kumar Yadav @ Sachin) were also present along with accused Abhishek @ Pidli, while Abhishek Sagar @ Katiya was being assaulted and participated in assault.

5. Learned counsel for petitioners submits that petitioners are aged about 19 years and were not involved in the incident. He contends that presence of



petitioners is not recorded in the CCTV footage. Further, injured suffered a head injury, as revealed in the MLC, apart from the gun shot injury, which was allegedly fired by accused Rohit Choudhary. He emphasizes that recovery of the scooty and alleged weapons used in the incident has already been made by the investigating agency. He further contends that petitioners have been falsely implicated and finger impressions of the applicants / petitioners might be forcefully taken by Police upon the alleged sticks used in the incident.

Reliance is placed upon orders passed in BAIL APPLN. 1800/2016 *Rahul vs. State*, decided on 02.05.2017 and BAIL APPLN. 277/2022, *Kamrul vs. State* decided on 25.01.2022.

6. On the other hand, learned APP for the State vehemently opposes the applications and submits that assault was made in furtherance of common intention and is an outcome of gang rivalry. He further contends that the presence of petitioner may not have been captured in CCTV footage which is yet to be investigated and the statement of independent eye-witness Raghav Dua cannot be ignored at this stage.

7. Apparently, assault on Abhishek Sagar @ Katiya appears to have been made in furtherance of common intention and despite his making an attempt to escape from the spot, all the accused followed him and assaulted him. The statement of eye-witness Raghav Dua qua petitioners cannot be ignored at this stage. It may also be noticed that even the complainant mentioned in FIR that Abhishek Sagar @ Katiya was assaulted by several accused, who reached the spot on motor cycle and scooty. The orders relied by learned counsel for petitioners are distinguishable on facts, keeping in perspective the evidence on record.



Considering the serious nature of offence, role of petitioners and since investigation is at initial stages, no grounds for anticipatory bail are made out.

Applications are accordingly dismissed. Pending applications, if any, also stand disposed of.

Nothing stated herein shall tantamount to expression of opinion on the merits on the case.

A copy of this order be kept in connected application.

ANOOP KUMAR MENDIRATTA, J.

AUGUST 8, 2024/R