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

+ **BAIL APPLN. 4113/2023**

SAMEER MALIK

..... Petitioner

Through: Ms. Neha Singh, Mr. Rahul, Mr.
Saurabh, Mr. Sukhvendra & Mr.
Nikesh, Advs.

versus

THE STATE GOVT. OF NCT OF DELHI

..... Respondent

Through: Mr. Mukesh Kumar, APP for the
State with SI Ramakant, P.S. Burari.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER
19.02.2024

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1. The present application under section 439 of Cr.P.C. seeks regular bail in case FIR No. 28/2022 under Sections 395/323/412/34 of IPC registered at PS Burari.

2. Status report dated 27.01.2024 authored by Sh. Rajendra Prasad, ACP SHO Burari has been handed up in Court. The same is taken on record. The case of the prosecution, as per the said status report, is as under:

“ 1. That in the intervening night 07.01.22 a PCR Call vide DD No 136 regarding 7-8 लोग चैम्पीयन टेम्पो DLILY0243 से आए थे और मारपीट करके सारा कैश लूटकर बुरारी की तरफ भाग गए है was received at PS Burari and same was entrusted to SI Deepak. On receiving above call SI Deepak, alongwith Ct Satish reached at Spot i.e. Preet Communication, Main 25 Feet Road, Makkhan Lal Chowk, Satya Vihar, Burari Delhi, the complainant/injured was



taken to the hospital by the police vehicle. Thereafter, SI Deepak obtained MLC No. 153/22 of the complainant having A/H/O Physical Assault by 10-12 Persons. The complainant was undergoing treatment and could not give his statement. On 08.01.2022 complainant arrived in PS and gave his statement wherein he stated that on 07.01.22 at around 9.30 PM, he was sitting in his shop i.e. Preet Communication. One Champion driver and his associate were arguing with one Scooterist, complainant intervened into the matter. Both Champion Driver and his associate started manhandling with the complainant. Both driver and his associate left the spot and after 15-20 minutes champion driver along with same person again arrived at the shop of complainant with four other persons and asked him to come out the shop. When the complainant came out of the shop, the champion driver accused Bilal put his hand in the pocket of complainant and took out his Rs. 15000/-, seeing this complainant resist but he was taken out of the shop forcefully by the assailants including applicant and they all started beating the complainant including applicant/accused. All of them beat the complainant with sticks and blows. After few minutes all of them fled from the spot. Subsequently, above case was registered and investigation was taken up.

3. Learned counsel for the applicant submits that the latter is an employee/labourer at the scrapstore (*kabadi dukkan*) of the father of the main accused Naushad, namely Sh. Shamshuddin at Burari. It is further submitted that there are no previous involvements of the applicant in any criminal case.
4. *Per contra*, learned APP for the State submits that the offences alleged in the present case are serious in nature and applicant was arrested on account of the statement made by the main accused Naushad during the investigation. He further submits that the present applicant has been clearly identified by the complainant during his TIP on 10.02.2022.
5. Heard learned counsel for the parties and perused the record.
6. The case of the prosecution is that there was a fight at Burari between



co-accused Naushad (who is the son of applicant's former employer) and the complainant herein. On a pointed query from this Court, the Investigating Officer submits that the present applicant was employed with father of co-accused Naushad.

7. The investigation in the present case is complete, the chargesheet stands filed. As per the nominal roll dated 19.01.2024, the applicant has been in judicial custody since 01.02.2022 and has undergone a period of incarceration of 1 year 11 months 18 days. The nominal roll further reflects that the applicant has no previous involvements.

8. In totality of the facts and circumstances of the case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to the 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.
9. The application is allowed and disposed of accordingly.



10. Pending application, if any, also stand disposed of.
11. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.
12. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

FEBRUARY 19, 2024/nk