



\$~10

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

+ **BAIL APPLN. 133/2024**

AJAY

..... Petitioner

Through: Mr. C.M. Thapliyal, Mr. S.P. Paul,
Mr. Ruhul Amin, Ms. Kiran Lata Pal
and Ms. Kanchan Thapliyal,
Advocates.

versus

STATE NCT OF DELHI

..... Respondent

Through: Ms. Shubhi Gupta, APP with SI Amit
Solanki, PS: Sunlight Colony, for
State.
Mr. Aditya Chandra & Mr. Vishal
Tanwar, Advocates for complainant.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

02.04.2024

%

1. This application has been preferred on behalf of the applicant under Section 439 Cr.P.C. for grant of regular bail in case FIR No.425/2023 under Sections 308/354/509 IPC read with Section 184 Motor Vehicles Act, 1988 registered at PS: Sunlight Colony.
2. Status report is handed over in Court and is taken on record. Case of the prosecution is that present FIR was registered on a complaint received from the wife of Aditya Mahendru, alleging that on 19.11.2020 when she, her husband and daughter were travelling in their car and were near Lajpat Nagar underpass, driver of a truck (applicant) bearing No.HR-69C-9907 started honking from behind and was driving rashly in an attempt to overtake. Before the Ashram red light, applicant stopped the truck and got



out. Aditya and the complainant also got out of the car and told the applicant to drive carefully, upon which the applicant started abusing them and pushed the complainant. When Aditya moved to protect her and in that process pushed the applicant away, applicant suddenly took out an iron rod out of the truck and hit Aditya on his head, resulting in heavy bleeding. Aditya fell on the ground in an unconscious state. People passing by caught hold of the applicant and he was later arrested by the police. Complainant's husband was rushed to the hospital and was saved on time.

3. It is the case of the prosecution, as brought forth in the status report, that applicant hit Aditya on vital part of the body and in the MLC, the nature of injury suffered by him was opined to be 'grievous' in nature, caused by blunt force/impact. Iron rod was recovered from the possession of the applicant. Investigation is complete and charge sheet has been filed. Trial is at the stage of framing of charges and total 11 prosecution witnesses have been enlisted. Applicant has been convicted vide judgment dated 05.04.2011 in case FIR No. 179/2007 for offences under Sections 379/411/34 IPC and the judgment is unassailed till date.

4. Learned counsel for the applicant states that applicant is innocent and has been falsely implicated. No incriminating article was recovered from the possession of the applicant or at his instance. Applicant is himself a victim and was assaulted by complainant's husband and sustained injuries. Investigation is complete and charge sheet has been filed and applicant is no longer required to remain in custody. He has been suffering incarceration since 20.11.2023 for no fault of his. Applicant is a permanent resident of Delhi and there is no apprehension of his absconding and he is willing to abide by any condition imposed by this Court.



5. Learned APP for the State, *per contra* states that applicant is not innocent as claimed. He consciously took out an iron rod from the truck and hit complainant's husband on a vital part of his body, leading to profuse bleeding. MLC reflects that Aditya suffered mild traumatic brain injury with left frontal bone fracture. Trial is at the stage of framing of charge and material witnesses are yet to be examined.

6. Heard counsel for the applicant and learned APP for the State.

7. The allegations against the applicant are serious. Apparently, without any provocation, applicant hit the husband of the complainant with an iron rod on a vital part of his body i.e. head, which led to profuse bleeding. He was immediately rushed to the hospital and saved on time. MLC indicates that the injury was opined to be grievous in nature and the diagnosis was '*Mild traumatic brain injury with left frontal bone fracture involving frontal sinus both outer and inner table underlying EDH with pneumocephalus, right temporal lobe haemorrhagic contusion + Sub arachnoid haemorrhage*'. Weapon of crime i.e. the iron rod was recovered from the applicant as per the status report. In these facts and circumstances, this Court is not inclined to grant regular bail to the applicant, at this stage.

8. Application is accordingly dismissed.

9. Needless to state, nothing stated in this order will be construed as an expression on merits of the case.

JYOTI SINGH, J

APRIL 2, 2024

B.S. Rohella