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

+ **BAIL APPLN. 3974/2024**

RAIS AHMED

.....Petitioner

Through: Mr. Manish Kaushik, Mr. Mishal
Johari and Mr. Ajit Singh Joher,
Advocate.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondent

Through: Mr. Raghuinder Verma, APP for
State along with SI Sanjeet Kumar,
PS-Wazirabad Delhi.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

11.11.2024

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1. The instant bail application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS" hereinafter) has been filed on behalf of the petitioner/applicant seeking grant of anticipatory bail in FIR No. 0577/2024 registered at Police Station Wazirabad, New Delhi for the offences punishable under Sections 115(2)/126(2)/125/109/3(5) of the Bharatiya Nyaya Sanhita, 2023 ("BNS" hereinafter) and under Sections 25/27/54/59 of the Arms Act, 1959 ("Arms Act" hereinafter).

2. The brief facts of the case that led to the filing of the instant application are as follows:

(a) On 29th July, 2024, a collision took place between the vehicle being driven by the respondent no.2 and the mini truck parked near the office of the applicant which led to a heated verbal altercation between the respondent no.2 and the applicant.



(b) Thereafter, the altercation between them escalated to an extent wherein the sons of both the parties got involved. Pursuant to the same, the applicant's son went inside their house to get a CO2 gun and fired the same in the air.

(c) Due to the aforesaid incident, the present FIR under Sections 115(2), 126(2), 125 and 3(5) of the BNS and under Sections 25, 27, 54 and 59 of the Arms Act was registered on the basis of the complaint filed by the respondent no.2.

(d) During the investigation, on the basis of the statements made on behalf of the complainant/respondent no.2 and the eyewitnesses, an offence under Section 109 of the BNS was also added in the present case.

(e) Being aggrieved by the same, the applicant herein has preferred the instant application seeking anticipatory bail.

3. Learned counsel for the applicant submitted that present FIR is based on false averments as the same is nothing but a counterblast to the original altercation as he has not committed any offence as alleged in the present FIR.

4. It is submitted that the photographs and videos of the date of incident clearly depicts that the respondent no.2 and his companions were the aggressors who had an intention to kill the applicant and his family members as they threatened to kill them and throw their dead bodies into the Yamuna River. It is further submitted that in pursuance of the same, the respondent no.2 and his sons attacked the applicant and his family by mercilessly beating them with sticks and rods.

5. It is submitted that the allegations leveled against the applicant in the



present FIR are baseless, concocted and untrue as the CCTV footage makes it clear that the applicant's son fired the CO2 gun in the air, in order to defend themselves, pursuant to which, the said weapon was duly handed over to the Investigating Officer ("IO" hereinafter) in the presence of two eyewitnesses.

6. It is submitted that the applicant and his son visited the concerned police station to request the initiation of a legal action against the respondent no.2 and his companions, however, no FIR got registered and no medical examination of the applicant and his son was conducted for the injuries sustained by them.

7. It is submitted that being aggrieved by the inaction of the concerned police officials, the applicant was left with no other option but to submit a complaint with the concerned SHO and DCP, however, no action was taken pertaining to the same and thus, the aforesaid complaint stands pending.

8. To further strengthen his arguments, the learned counsel for the applicant placed reliance on the orders dated 22nd October, 2024 passed by this Court, by virtue of which, the co-accused persons namely, Mr. Zaid Ahmed and Mr. Anis Ahmed were granted anticipatory bail. The said orders have been annexed as Annexures A-14 and A-15 to the instant application.

9. It is further submitted that the applicant is entitled to the said relief as he is a law-abiding citizen of this country and has no criminal antecedents. It is submitted that the applicant herein undertakes to abide by all the conditions imposed on him by this Court while granting the relief of anticipatory bail.

10. Therefore, in view of the foregoing submissions and the undertaking given by the applicant, it is prayed that the present application may be



allowed and the reliefs be granted as prayed for.

11. *Per Contra*, learned APP for the State vehemently opposed the instant application seeking anticipatory bail and submitted that the same may be dismissed being bereft of any merits.

12. It is submitted that pursuant to the incident that took place on 29th July, 2024, the present FIR was registered and during the investigation, the supplementary statements of the complainant/respondent no.2 and the eyewitnesses including, Mr. Mohammad Arshad and Mr. Mohammad Aashiq were recorded.

13. It is submitted that the statements of the aforesaid eyewitnesses duly corroborate with the complainant/respondent no.2's version wherein it was alleged that the applicant and his sons were armed with sticks and physically assaulted the respondent no.2 and his family. It is also submitted that the CCTV footage reflects that the applicant's son fired the said CO2 gun twice pointing the same at the respondent no.2 and his family and fired it one time in the air.

14. It is further submitted that notices were issued by the IO to the applicant and his family to join the investigation, however, the said notices have not been complied with. Moreover, it is submitted that a search was made to arrest the co-accused person, i.e., applicant's son, Mr. Anas Ahmed, who fired the CO2 gun but he is still at large and thus, absconding from the investigation in the present matter.

15. Learned APP for the State also submitted that this Court has already granted anticipatory bail to the co-accused persons namely, Mr. Zaid Ahmed and Mr. Anis Ahmed and they have joined the investigation, however, they have failed to fully cooperate with regard to the whereabouts



of the aforesaid co-accused person, i.e., their brother namely, Mr. Anas Ahmed who is absconding.

16. Therefore, it is submitted that in case this Court allows the instant anticipatory bail application, the applicant may influence, intimidate or threaten the witnesses, thus, it is prayed that the present application may be dismissed in the interest of justice.

17. Heard learned counsels for the parties and perused the material placed on record.

18. It is the case of the applicant that the instant FIR has been filed by the respondent no.2 as a counterblast to the original altercation that took place on the date of the incident, and thus, the applicant has not committed any offences as alleged against him therein. It has also been argued that the CO2 gun was fired by the applicant's son in order to defend themselves from the attacks of the respondent no.2 and his companions.

19. This Court observes that pursuant to the heated altercation that took place on 29th July, 2024 between the parties, the applicant and his family also sustained injuries, and the same is evident from the medical reports of the applicant which has been annexed as Annexure A-7 as well as photographs of the injuries sustained by him, which is annexed as Annexure A-10 to the instant petition.

20. Furthermore, it is pertinent to state that the co-accused persons namely, Mr. Zaid Ahmed and Mr. Anis Ahmed have already been granted the relief of anticipatory bail *vide* orders dated 22nd October, 2024 passed by this Court, which have been annexed as Annexures A-14 and A-15 to the instant petition.

21. At this juncture, this Court deems it apposite to state the settled law



qua the determination of an application seeking anticipatory bail in the judgment passed by the Hon'ble Supreme Court in ***Siddharam Satlingappa Mhetre v. State of Maharashtra*, (2011) 1 SCC 694** wherein the Hon'ble Court reiterated broad principles for grant of anticipatory bail and it was observed that the personal liberty of an accused is of utmost value and the same should not be jeopardized by false and frivolous accusations.

22. Moreover, a Coordinate Bench of this Court in ***Ameet Khandelwal v. State (NCT of Delhi)*, (2021) 2 HCC (Del) 173**, further observed the aforesaid principle and held that the severity of accusations does not in itself disentitles an applicant for the grant of pre-arrest bail and thus, a totality of circumstances need to be considered for determination of the same.

23. Therefore, applying the law stated in the aforesaid judicial *dictum* and keeping in view the fact that the co-accused persons namely, Mr. Anis Ahmed and Mr. Zaid Ahmed have already been granted the aforesaid relief and the fact that the applicant has a clean antecedent, this Court is inclined to grant the protection to the applicant by allowing the instant application seeking anticipatory bail.

24. Accordingly, it is directed that in the event of arrest, the applicant be released on bail on his furnishing personal bond in the sum of **Rs.50,000/-** (Rupees Fifty Thousand only) with two solvent sureties of like amount to the satisfaction of the IO subject to the conditions as follows:-

- a) The applicant shall surrender his passport, if any, to the Investigating Officer and shall under no circumstances leave India without prior permission of the Court concerned;
- b) The applicant shall cooperate in the investigation and appear before the Investigating Officer of the case as and when



required;

- c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- d) The applicant shall provide his mobile number(s) to the IO and keep it operational at all times;
- e) In case of change of residential address and/or mobile number, the same shall be intimated to the IO/Court concerned by way of an affidavit.

25. It is made clear that any observations touching the merits of the case are purely for the purpose of deciding the question of grant of bail by this Court and shall not be construed as an expression of final observation in any proceedings pending before any Court.

26. With the aforesaid directions, the bail application stands disposed of. Pending applications, if any, also stand dismissed.

CHANDRA DHARI SINGH, J

NOVEMBER 11, 2024

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Click here to check corrigendum, if any