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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4401/2024 & CRL.M.(BAIL) 2025/2024**

ROHAN CHANJALYA

.....Applicant

Through: Mr., Raghav Saluja, Adv.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Rajkumar, APP for
the State.

SI Kumher Singh, PS Pul
Prahladpur.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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02.12.2024

CRL.M.A. 35971/2024 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present application is filed seeking pre-arrest bail in FIR No.215/2024 dated 09.06.2024, registered at Police Station Pul Prahlad Pur, for offences under Sections 308/427/34 of the Indian Penal Code, 1860 ('IPC').

4. The FIR was registered on a complaint given by Mr. Ashok Kumar alleging that the applicant along with other co-accused persons had mercilessly beaten him and his associates. Serious injuries were caused to the complainant and the other victims, which led to registration of the FIR under Section 308/427/34 of the IPC. The victims are stated to have been beaten with the iron rod, stones, sticks and some sharp objects.

5. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He

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submits that the applicant was not named in the FIR, even though, admittedly, the complainant has known the applicant since many years.

6. The learned Additional Public Prosecutor for the State submits that the complainant categorically took names of accused persons Deepak, Arun, Ajay and Sumit Bhati in the FIR. He submits that the complainant also mentioned that these accused persons along with their associates had attacked the complainant and his friends.

7. He submits that applicant is an associate of the other accused persons and is clearly visible in CCTV footages of the incident which show him holding an iron rod. He submits that some accused persons were arrested.

8. I have heard the counsel and perused the record.

9. It is to be kept in mind that the considerations governing the grant of pre- arrest bail are materially different than those to be considered while adjudicating the application for grant of regular bail, as in the latter case, the accused is already under arrest and substantial investigation is carried out by the investigating agency.

10. It is trite law that the power to grant a pre-arrest bail under Section 438 of the CrPC is extraordinary in nature and is to be exercised sparingly. Thus, pre-arrest bail cannot be granted in a routine manner. The Hon'ble Apex Court, in the case of *State of A.P. v. Bimal Krishna Kundu : (1997) 8 SCC 104*, held as under:

"8. A three-Judge Bench of this Court has stated in Pokar Ram v. State of Rajasthan [(1985) 2 SCC 597 : 1985 SCC (Cri) 297 : AIR 1985 SC 969] : (SCC p. 600, para 5)

"5. Relevant considerations governing the court's decision in granting anticipatory bail under Section 438 are materially



different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal.”

9. Similar observations have been made by us in a recent judgment in State v. Anil Sharma [(1997) 7 SCC 187 : 1997 SCC (Cri) 1039 : JT (1997) 7 SC 651] : (SCC pp. 189-90, para 8)

“The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest.”

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12. We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour of granting anticipatory bail to the respondents. It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations involving well-orchestrated conspiracy, with a pre-arrest bail order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have absolutely no doubt that if the respondents are equipped with such an order before they are interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on “the career of millions of students”, learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order.”

11. It is pointed that the chargesheet has been filed and the charges have been framed against the other accused persons for offences under Sections 308/324/325/326/427 read with Sections 147/148/149 of the IPC.

12. Serious injuries have been caused to the complainant and other victims. Five victims were seriously injured. Injuries are indicated to be grievous, sharp and blunt. The investigation also reveals that various vehicles were also damaged by the accused



persons.

13. It is stated that the applicant has not joined the investigation, which led to initiation of proceedings under Section 82 of the Code of Criminal Procedure, 1973.

14. The applicant is also stated to be visible in the CCTV footage holding an iron rod at the time of incident on the intervening night of 08.06.2024 and 09.06.2024.

15. The investigation conducted thus, so far does not indicate that the applicant is sought to be falsely implicated. The material presented by the prosecution establish a *prima facie* involvement of the applicant.

16. Charges have also been framed against the other accused persons taking support of Sections 147/148/149 of the IPC, which hold every member of unlawful assembly guilty of the offence committed in prosecution of common intention.

17. Considering the gravity of the offence and the manner in which it was allegedly committed, this Court does not consider it apposite to allow the present application.

18. The application is, therefore, dismissed.

19. 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.

AMIT MAHAJAN, J

DECEMBER 2, 2024
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