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

+ **BAIL APPLN. 1478/2024**

KHERUL SHEKH

.....Petitioner

Through: **Mr. Suraj Prakash Sharma, Adv.**

versus

STATE NCT OF DELHI

.....Respondent

Through: **Ms. Shubhi Gupta, APP for the State.
SI Wazir Singh, P.S. Narela Industrial
Area.**

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

28.01.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 438 of the Cr.P.C. seeks anticipatory bail in case FIR No. 329/2024 under Sections 308/323/509/34 of the IPC, registered at P.S. Narela Industrial Area.
3. The prosecution's case as per the status report dated 23.07.2024, authored by Insp. Rajesh Kumar, SHO Narela Industrial Area is as under:-

“1. That the present petition has been filed by the petitioner for Anticipatory Bail in case FIR NO.329/2024 Dt.-30/03/2024 U/S:- 308/323/509/341 IPC.

2. That on 29.03.24, on receiving DD No. 60A, HC Praveen reached at spot E-3721, JJ Colony, Bawana. Where no complainant/injured person was found. It came to notice that the injured have been taken to MV Hospital, Pooth Khurd. On which HC Praveen reached Maharshi Valmiki Hospital where injured Salma W/o Karimudin R/o E-2031, JJ Colony Bawana Delhi, Age-24 Years on MLC No. 1528/24, injured Chand S/o Abdul Rasid R/o E-3728, JJ Colony Bawana Delhi, Age-20 Years on



MLC No. 1529/24, injured Suleman S/o Md. Ehsan R/o E- 3728, JJ Colony Bawana Delhi, Age-19 Years on MLC No. 1530/24 and injured Kurban S/o Gabbar R/o E-1914, JJ Colony Bawana Delhi, Age-20 Years on MLC No.1531/24 were found under treatment. On which MLCs were obtained and on the statement of injured Salma W/o Karim R/o H. No. E-3728, J.J. Colony Bawana Delhi, Age-24 Years a case was registered against Faltu, Laltu, Hemraj Yadav and Khairul. Further investigation was handed over to SI wazir Singh No.4366-D.

3. Complainant/Injured Salma stated in her statement that Hemraj Yadav had hit Chand on the head with an Iron rod carrying in his(Hemraj) hand. Faltu had hit the complainant with an Iron rod carrying in his hand. Laltu had injured complainant's brother Suleman on the head with a big knife carrying with him. Khairul had injured Kurban with some sharp object carrying with him. It is pertinent to mention that injured Chand discharged from AIIMS Hospital on 01.04.24. Copy of statement U/s-161 CrPC annexed as annexure-A.

4. That in that fight Laltu, Runi, Naseema, Faltu and Sajan were also injured. A case FIR No. 328/24 u/s 452/324/323/34 IPC was also registered on the statement of injured Faltu.

5. That, during the course of investigation of this case, Hemraj Yadav and Laltu were arrested in this case after passing sufficient evidences against them and sent to Judicial Custody.

6. That, during the course of investigation a notice U/s-91 CrPC was given to injured Kurban S/o Gabbar R/o E-1994/F-112 JJ Colony Bawana Delhi for producing further treatment documents in connection with MLC No.1531/24, Dt.29.03.2024 but he didn't produce any documents and stated that he didn't get any further treatment. Further MLC NO.1531/24 was submitted for final opinion at MV Hospital Pooth Khurd Delhi on which doctor written that "Pts referred to higher centre for further management. pts hadn't taken any treatment from higher centre and no document submitted of higher centre. Hence opinion can't be given. If valid document submitted to court then opinion can be given". Copy of MLC annexed as annexure-B."

4. The notice in the present application was issued by an order dated



30.04.2024 passed by the predecessor bench by observing as under:-

3. The above FIR has been registered on a complaint regarding the fight which took place between the two groups. At the outset, it is noticed that the group of the Applicant herein has also filed a complaint, on the basis of which FIR no.328/2024 under Sections 452/323/324/506/34 of the IPC has been registered at Police Station: Narela Industrial Area, Outer North District, Delhi.

4. The role attributed to the applicant is twofold, that he was carrying a danda during the course of the fight, and second, that he caused injury to one Mr.Kurban with some sharp object.

5. Issue notice.

6. Notice is accepted by Ms.Priyanka Dalal, learned APP for the State.

7. She submits that the Applicant has a prior criminal antecedent inasmuch as another FIR, being FIR no.577/2015 under Sections 323/341/34 IPC registered at Police Station: Narela, Outer District, Delhi, is also pending against him. She further submits that the allegations in the FIR are also grave in nature and the applicant was absconding and was not traceable. She has also read out the contents from the MLC of the person on whom the applicant is supposed to have inflicted injury.

8. Having considered the entire circumstances, and especially the MLC, it is directed that subject to the condition that the Applicant joins the investigation, no further coercive steps be taken against him till the next date of hearing.”

5. Learned counsel for the applicant submits that in pursuance of the aforesaid order, the applicant has joined investigation as and when directed by the concerned Investigating Officer. It is pointed out that the same has been confirmed in the status report dated 23.07.2024 filed by the State.

6. Learned APP for the State submits that the allegations in the present FIR is serious, the custodial interrogation of the applicant is required in order to recover the alleged weapon used by him to injure a family member of the



complainant namely Kurban. It is further pointed out that the applicant is also previously involved as an accused in FIR No. 577/2015 under Sections 323/341/34 of the IPC registered at P.S. Narela.

7. Heard the learned counsel for the parties and perused the records.

8. Despite the investigation being pending for a long time, the opinion on the injury suffered by Kurban has still not been ascertained. It is further noted that the description of the alleged weapon in the FIR is vague. It is already noted above, there are cross FIRs with regard to the present incident and the applicant has joined the investigation as and when directed by the concerned Investigating Officer.

9. In totality of the facts and circumstances of the case, the present application for anticipatory bail is allowed. In the event of arrest, the applicant is directed to be released on bail on his furnishing personal bond of Rs. 25,000/- with one surety of like amount to the satisfaction of the Investigating Officer/Arresting Officer, further subject to following conditions:

- i. The applicant shall not leave the country 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 shall join the investigation as and when called by the Investigating Officer concerned.
- v. The applicant will not try to influence the witnesses in any manner.



- vi. The applicant shall provide his mobile number to the Investigating Officer and intimate about any change.
10. The application is allowed and disposed of accordingly.
11. Pending application(s), if any, also stand disposed of.
12. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.
13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

JANUARY 28, 2025/nk

Click here to check corrigendum, if any