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

+ **BAIL APPLN. 2296/2024**

MOHIT VERMA

..... Applicant

Through: Mr. Sumit Choudhary, Advocate.

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Mukesh Kumar, APP.

SI Bhoop Singh and ASI Randhir,
P.S. Bindapur.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

13.01.2025

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1. The present application under Section 438 of the Code of Criminal Procedure, 1973¹, seeks grant of anticipatory bail in case FIR No. 203/2024 registered under Section 308/34 of the Indian Penal Code, 1860. The case of the prosecutions is as follows:

1.1. On 29th April, 2024, a PCR call was recorded under DD No. 79-A regarding a quarrel at house no. RZ-68, New Uttam Nagar, Delhi. When the ASI reached the spot and made inquiry, it was revealed that the injured has been shifted to Mata Chanan Devi Hospital by the PCR van.

1.2. At the hospital, Mr. Virender Singh aged 62 years was found admitted under MLC 13116/2024 dated 19th April, 2024. He was kept in ICU by 4/5 days. On the perusal of the MLC of the victim, the injuries mentioned are

¹ ['CrPC']



“pain in chest, breathing problem and abrasion marks over both knees” and “multiple rib fracture with Hemothorax” (dangerous injuries).

1.3. Subsequently on 14th May, 2024 the victim made a statement. In his statement, he narrated that Pooja (wife of his son Hemant) and other persons named in the FIR which includes the Petitioner, came at their house and brutally hit him, his wife Smt. Raj Rani and his sons Hemant and Hitesh. On the basis of his statement, the FIR under Section 308/34 of the Indian Penal Code, 1860² was registered.

1.4. During investigation, CCTV footage was obtained and the perusal of the same reveals that the accused persons came to the house and there is a scuffle which indicates that certain persons are beating each other. During investigation on perusal of CCTV footage, Rahul Rana was also identified an accused and associate of the Petitioner’s family.

2. The Petitioner, brother-in-law of the co-accused, Pooja, who is the daughter-in-law of the Complainant, denies the allegations and contends that he has been falsely implicated. He presents his own version of the alleged incident, asserting that the matter stems from an ongoing matrimonial dispute between his sister-in-law (Pooja), and Mr. Hemant, the son of the Complainant.

2.1 He further points out that this matrimonial discord has led to the initiation of multiple legal proceedings, including a complaint filed under Section 125 of the Code of Criminal Procedure (CrPC). At one time, settlement took place between them before the Family Court and it was decided that Pooja and Hemant will resume their matrimonial life with each other. In compliance of the said settlement, Pooja and her minor daughter



started residing with her husband, from 25th March, 2024 at their matrimonial house. On 26th April, 2024, Pooja along with her minor daughter visited her parental house for few days. On 29th April, 2024 at around 10-11:00 am, husband, mother-in-law and brother-in-law of Pooja threw out some of her belongings in front of her parental house. They stated that they would allow Pooja to enter their matrimonial home only when their demand of dowry is met. On the same day at about 1:00 - 2:00 pm, Pooja alongwith some of her family members reached her matrimonial house. When Pooja entered her matrimonial home, she was sexually harassed by her father-in-law and who thereafter pushed her out of the house. In this background, when the Petitioner and other family members of Pooja tried to intervene, the complainant, husband, brother-in-law and mother-in-law all started beating them. A scuffled took place where both the parties received injuries.

2.2 To report the incident, Pooja also approached the police officials and explained the facts but they did not record her statement. Aggrieved by the same, she submitted a written complaint on 2nd May, 2024 to the DCP but no action has been taken on the said complaint. On the other hand, after a delay of more than 15 days from the alleged incident, the Police registered false FIR against the Petitioner and his family members.

2.3 The Petitioner has clean antecedents. The FIR is premised on false and frivolous allegations and is nothing but a classic case of a matrimonial dispute being given a criminal colour to deter and coerce the sister-in-law of the Petitioner to divorce the son of the Complainant.

2.4 No grounds for the offence of Attempt to Culpable Homicide

² “IPC”



punishable under Section 308 of the IPC is made out.

2.5 Some of the other co-accused have already been enlarged on regular bail as well as Anticipatory bail.

2.6 In such circumstances, where the Petitioner is fully cooperating with the investigation, there appears to be no necessity for custodial interrogation.

3. Mr. Mukesh Kumar, APP, on the other hand, strongly opposes the application. He submits that nature of the injuries received by the complainant are not only grievous, but dangerous. The victim was in ICU for 4/5 days, which again indicates the gravity of nature of injuries suffered by him. The statement made by the victim and also the evidence gathered in the nature of CCTV footage, wherein the Petitioner has been identified, clearly indicates their criminal intent and therefore the offence under Section 308 of the IPC is clearly made out in the instant case. The Petitioner should therefore not be granted any indulgence. Furthermore, the CCTV footage indicates the presence of nearly twelve persons who are involved in the beating. He submits that, as of now, only eight have been identified and the Petitioner is not disclosing the details of the remaining four persons who can be seen in the CCTV footage.

4. The Court has carefully considered the contentions advanced by both sides. The CCTV footage placed on record does show a scuffle breaking out, and the medical record *prima facie* indicates that the injuries allegedly suffered by the Complainant are indeed grave. However, the Court must also weigh other relevant factors, including the specific role attributed to the Applicant, the Applicant's criminal antecedents, the likelihood of the Applicant absconding, and the necessity of custodial interrogation. While it is well established that anticipatory bail cannot be granted as a matter of



routine, it is equally undeniable that an arrest carries with it a significant degree of humiliation and social stigma. Therefore, the Court must strike a balance between ensuring the fair administration of justice and safeguarding the Applicant's right to personal liberty. In cases where the accused has joined investigation and is cooperating with the Investigating Agency and is not likely to abscond, custodial interrogation should be avoided. In the instant case, it must be noted that this Court has on 8th July, 2024, directed the Petitioner to join the investigation. The Court also directed that in the event there was a necessity to arrest the Petitioner, a 15 days' notice shall be given to him. Since then, the Petitioner has appeared before the Investigation Officer as and when called.

5. That apart, certain other relevant facts merit consideration. The incident leading to the registration of the FIR stems from a matrimonial dispute. The Petitioner has no prior criminal antecedents, and no specific role has been attributed to him beyond the general allegation that he was one of the individuals involved in hitting the Complainant. Furthermore, two co-accused, Nisha and Bunty, have already been granted regular bail, and Pooja, the wife of Hemant, has been granted anticipatory bail by this Court.

6. In light of the foregoing, the Application is allowed. Consequently, the Petitioner in the event of arrest, is directed to be released on bail on furnishing a personal bond in the sum of Rs. 50, 000/- with one surety of the like amount subject to the satisfaction of the arresting officer/IO/SHO concerned, on the following conditions:

- a. The Petitioner shall join and cooperate with the investigation as and when directed by the IO;
- b. In case the Petitioner fails to join the investigation, the State shall at



liberty to move appropriate application;

c. The Petitioner shall not leave the country without informing the IO/SHO concerned;

d. The Petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;

e. The Petitioner shall provide his mobile number(s) to the Investigating Officer and keep it operational at all times

f. In case of change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/Court concerned by way of an affidavit.

7. 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.

8. Accordingly, the bail application along with pending applications, if any, is disposed of.

SANJEEV NARULA, J

JANUARY 13, 2025

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