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

+ **BAIL APPLN. 4808/2024**

DEVENDRA KUMAR

.....Petitioner

Through: **Mr. Ajay Yadav, Advocate**

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: **Mr. Mukesh Kumar, APP for the
State with Mr. Karandeep Singh,
Advocate along with ASI Vishram,
PS Mehrauli, Delhi**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

03.02.2025

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1. The present application has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ seeking grant of pre-arrest bail in proceedings arising from FIR No. 572/2024 dated 15th August, 2024 registered under Sections 118(1)/126(2)/351(3) of the Bharatiya Nyaya Sanhita, 2023² at P.S. Mehrauli.

2. The case of the Prosecution is summarised as follows:

2.1 The Complainant, Mr. Gaure Lal is a permanent resident of Baijamau Bangar, Tehsil Sikandra Distt. Kanpur Dehat Uttar Pradesh, who was temporarily residing at Jain Farm House, Jamali Kamali Park, Mehrauli, New Delhi, where he was employed as a security guard. The Applicant, who

¹ "BNSS"



hails from the same village as the Complainant, was working as a supervisor at the same place. The Complainant had not received his salary for a period of four months, which prompted him to request payment from the Applicant on 13th August, 2024. However, in response, the Applicant resorted to abusing the Complainant; he started pushing the Complainant and instructed him to leave the place. He threatened that if the Complainant did not leave the said place, the Applicant would kill him.

2.2 The Applicant took a *danda* with a nail from nearby, and hit the Complainant on his left arm and back. The Complainant ran from the spot, and discovered that his arm was bleeding. Subsequently, he made a PCR Call.

2.3 The Complainant provided his statement on 15th August, 2024. Based on the contents of this statement and the MLC, the impugned FIR was registered at P.S. Mehrauli.

2.4 On 15th August, 2024, a detailed site plan was prepared. A notice under Section 35(3) of BNSS was issued to the Applicant, who subsequently joined investigation on 17th August, 2024, and was bound down. During interrogation, the Applicant stated that he had hit the Complainant with a *danda*, which had a nail on it. The Applicant further stated that he had thrown the *danda* in the nearby bushes. A search was conducted at the location indicated by the Applicant, however, the *danda* with the nail could not be recovered. As such, the recovery of the weapon could not be made.

2.5 The Complainant was medically examined at AIIMS Trauma Hospital, *vide* MLC No. 500448266/2024 on 13th August, 2024. The doctor, in the final opinion on the Complainant's MLC, classified the nature of his

² "BNS"



injury as grievous and determined that the weapon used was sharp. Following this opinion, Section 118(2) of BNS was added to the present case.

2.6 The Applicant subsequently filed an application for pre-arrest bail before the Metropolitan Magistrate, which was dismissed. The Magistrate then directed the State to issue a notice to the Applicant, in compliance with which a notice under Section 35(3) of BNSS was served. However, the Applicant failed to join the investigation and did not provide any intimation.

2.7 On 24th December, 2024, this Court ordered that no coercive measures be taken against the Applicant, provided that he joined the investigation. In accordance with this direction, a notice under Section 35(3) of BNSS was served to the Applicant, pursuant to which he appeared before the IO on 23rd January, 2025.

3. Mr. Mukesh Kumar, APP for State, opposes the present application and submits that although the Applicant has joined the investigation, he has not extended the necessary cooperation. Specifically, the *danda*, which is alleged to have been used in the commission of the offence, has not been recovered, and the Applicant has failed to assist in this regard. Additionally, he submits that according to the MLC, the nature of the injuries sustained by the Complainant is grievous, and accordingly, the Applicant should not be released on bail.

4. Counsel for the Applicant, on the other hand, denies the aforementioned allegations. He asserts that the Applicant has never struck the Complainant and claims that he has been falsely implicated in the present case.

5. The Supreme Court has repeatedly emphasized that the provision of



anticipatory bail, under Section 438 CrPC, is rooted in Article 21 of the Constitution, which guarantees personal liberty. This calls for a liberal interpretation of the provision, upholding the fundamental principle that every individual is presumed innocent until proven guilty. Section 438 aims at protecting the personal liberty of an individual, who, at the time of seeking anticipatory bail, has not been convicted of the alleged offence and is entitled to the presumption of innocence.³ In accordance with the said guidelines, and considering that the Applicant has no prior criminal antecedents and has joined the investigation, his request for grant of anticipatory bail is allowed. The Applicant, in the event of arrest, is directed to be released on bail on furnishing a bail bond for a sum of INR 25,000/- with one surety of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The Applicant shall join and cooperate with the investigation as and when directed by the IO;
- b. The Applicant shall not leave the boundaries of the country without informing the IO/ SHO concerned;
- c. The Applicant shall not contact the witnesses or tamper with the evidence in any manner;
- d. The Applicant shall give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;
6. In the event of there being any FIR/DD entry/complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

³ Gurbaksh Singh Sibbia and Others v. State of Punjab, (1980) 2 SCC 565; Siddharam Satlingappa Mhetre v. State of Maharashtra and Others, (2011) 1 SCC 694.



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. The application is allowed in the aforementioned terms.

SANJEEV NARULA, J

FEBRUARY 3, 2025/ab