

(2019) 08 DEL CK 0169
In the Delhi High Court
Case No : Bail Application No. 899 Of 2019

Bhushan Kumar

APPELLANT

Vs

State (Gnct Of Delhi)

RESPONDENT

Date of Decision : 21-08-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 354, 354A, 354B, 376

Citation : (2019) 08 DEL CK 0169

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Deepak Singh, Hirein Sharma, Avinash

Final Decision : Allowed

Judgement

Sanjeev Sachdeva, J

1. Petitioner seeks Anticipatory bail in FIR No.2/2019 under Sections 354/354A/354B/376/34 IPC, Police Station Gandhi Nagar.
2. Allegations against the petitioner by the prosecutrix are that she is an owner of a particular shop and there is a dispute with the brother of the petitioner - the co-accused. She got information that some person had come to break open the lock of her shop. When she reached the spot, she found the petitioner there along with his brother with tools for breaking the lock and when she objected, it is alleged that they assaulted her.
3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated. He submits that there is a dispute with regard to possession of a shop and the possession is of the co-accused and not of the complainant. He submits that when the petitioner was at the shop, the complainant along with her husband and another person came to the spot and started assaulting them, on which he made a PCR call at 10:26 pm. He submits that subsequently, PCR call was made by the prosecutrix at 10:35 pm alleging that someone was attempting to break open the lock of her shop. Later on she changed her version and

another call was made to PCR alleging that someone had misbehaved with her.

4. The Investigating Officer has produced the CCTV footage of the incident. The prosecutrix in her complaint has stated that she had come to the spot alone and the petitioner had assaulted her, however, prima facie on viewing the CCTV footage, it appears that she was not alone and was accompanied by other individuals and there was an altercation between the persons present there and the prosecutrix was away from the petitioner most of the time.

5. Learned APP for the State, under instructions from the Investigating Officer, submits that the prosecutrix in her statement has not disclosed that she was accompanied by other individuals.

6. On perusal of the record, I am satisfied that the petitioner is entitled for grant of anticipatory bail.

7. Accordingly, it is directed that in the event of arrest, the arresting officer/IO/SHO shall release the petitioner on bail, on petitioner furnishing a bail bond in the sum of Rs. 25,000/- with one local surety of the like amount to the satisfaction of the arresting officer/Investigating Officer/SHO concerned. Petitioner shall not do anything that may prejudice either the trial or the prosecution witnesses.

8. Petition is allowed in the above terms.

9. Order Dasti under signatures of the Court Master.