

(2014) 02 DEL CK 0141
In the Delhi High Court
Case No : Bail Application 288 of 2014

Kumar Ashish

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 07-02-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 308, 323

Citation : (2014) 1 CCR 223 : (2014) 3 Crimes 592 : (2014) 208 DLT 31 :
(2014) 1 JCC 555

Hon'ble Judges : S. Muralidhar, J

Bench : Single Bench

Advocate : Sunil K. Mittal, Mr. Naresh C. Sharma and Mr. Kshitij Mittal, Advocate for the Appellant; Ashaa Tiwari, APP. and Mr. S.K. Sharma, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

S. Muralidhar, J.

CrI. M.A. No. 2152 of 2014 (for exemption)

1. Exemption allowed subject to all just exceptions. The application is disposed of.

Bail Application No. 288 of 2014

2. This is a petition u/s 438 Cr.P.C. seeking anticipatory bail in FIR No. 448 of 2013 under Sections 323/308 IPC registered at P.S. Chhawla.

3. The case against the Petitioner in FIR No. 448 of 2013 is that the co-accused Puneet Sharma and Sumit along with others assaulted the Complainant and two others who are working as Chowkidars in the plot No. 43, Gali No. 8, Shyam Vihar, Phase-II, New Delhi at around 3.45 am in the morning of 16th December 2013.

4. A perusal of the FIR shows that the specific allegation as regards Mr. Puneet

Sharma is that he was having rod in his hand and he gave rod blow on the head of the Complainant. He had also shown the Complainant pistol before given sariya blow. It is alleged that the Complainant along with Pradeep and Manoj were beaten with lathies and sariyas. There is no specific allegation that the Petitioner, Kumar Ashish, was beating the Complainant or the others. The Complainant states in the FIR that he heard the noise of the persons uttering "Puneet maar salo ko" and "Ashish maar salo ko".

5. The co-accused Puneet Sharma has been granted anticipatory bail by an order dated 16th January 2014 of the learned Additional Sessions Judge.

6. Learned counsel for the Petitioner states that the Petitioner does not have four fingers in the right hand and is unable to wield any lathi or rod.

7. Learned counsel for the Complainant states that the custodial interrogation is required to identify the others who are associated with the attack and to locate the weapon of the crime.

8. With the role attributing to the Petitioner being in the FIR definitely not being as grave as attributed to Puneet, as with Puneet having been granted anticipatory bail, there is no reason why the Petitioner should not also be granted a similar order, particularly since learned counsel for the Petitioner has assured the Court that the Petitioner will join investigations as and when directed by the Investigating Officer ("IO")-

9. Accordingly, it is directed that the Petitioner will join the investigation before the IO on 10th February 2014 at 4 p.m. and will continue to appear as and when directed by IO. He will cooperate in the investigation. The Petitioner will not shift from his present place of residence without informing the IO. He will also furnish to the IO the mobile number on which he may be contacted. Subject to the above condition, in the event of his arrest, the Petitioner will be released on bail subject to furnishing his personal bond in the sum of Rs. 20,000 with one surety of the like amount to the satisfaction of the IO/arresting Officer.

10. It is made clear that if the above conditions are violated, it will be open for the prosecution and/or the Complainant to apply for cancellation of the anticipatory bail. It is further clarified that the prima facie observation in this order are not to be construed as expression by the Court of an opinion on merits. The petition is disposed of in the above terms. Order be given dasti to learned counsel for the parties under the signature of the Court Master.