

(2018) 03 DEL CK 0097

In the Delhi High Court

Case No : BAIL APPLN. 495 Of 2018 and Crl. M.A. No. 371 Of 2018 (interim bail)

Prakash Jarwal

APPELLANT

Vs

State Of Nct Delhi & Anr

RESPONDENT

Date of Decision : 09-03-2018

Acts Referred:

Indian Penal Code, 1860 — Section 186, 332, 353, 120B, 504, 342, 506 Part-II, 323, 34

Code Of Criminal Procedure, 1973 — Section 164

Citation : (2018) 03 DEL CK 0097

Hon'ble Judges : MUKTA GUPTA

Bench : Single Bench

Advocate : Mr. Dayan Krishnan, Ms. Rebecca M. John, Mr.Mohd. Irsad, Mr. Rizwan, Mr. Rahul Mehra, Mr. Sanjay Lao, Mr. Ashok K. Garg, Mr. Siddharth Luthra, Mr. Rajiv Mohan, Mr.M.A.Karthik

Final Decision : Disposed Of

Judgement

1.Petitioner seeks bail in case FIR No. 54/2018 under Sections186/332/353/120B/504/342/506 Part-II/323/34 IPC registered at PS Civil Lines, New

Delhi.

2.The above noted FIR was registered on the complaint of Shri Anshu Prakash, the Chief Secretary of Delhi Government. In the complaint,

complainant stated that at around 8.45 PM on 19th February, 2018 he received a phone call from Shri V.K. Jain, Advisor to the Chief Minister, asking

him to reach Chief Minister's residence at 12.00 midnight to discuss with the Chief Minister and the Deputy Chief Minister the issue of difficulty

in release of certain TV advertisements relating to the completion of three years of the current government in Delhi. Complainant suggested that the

meeting could be held on 20th February, 2018 in the morning however, Advisor to the Chief Minister reverted back to him at 9.00 PM and again at

10.00 PM stating that the meeting has been scheduled by the Chief Minister at 12.00 midnight. According to the complainant even prior to receipt of

the telephone call from Shri V.K.Jain, he received a phone call from the Deputy Chief Minister at around 6.55 PM informing him that if the matter of

release of TV advertisement was not resolved by the evening, complainant should reach Chief Minister's residence at 12.00 midnight to discuss

the issue. As per the complainant, Advisor to the Chief Minister again called him at around 11.20 PM to confirm whether he had left for Chief

Minister's residence for the meeting, whereafter, the complainant left the residence in his official car along with the driver and the PSO and

reached the CM's residence at midnight. On arrival at Chief Minister's residence, he met the Advisor to the Chief Minister and thereafter

both of them were taken to the front room where the Chief Minister, Deputy Chief Minister and around 11 MLAs/person were present. The Chief

Minister told the complainant that persons present in the room were MLAs and they have come to ask him about the government's publicity

programme on completion of three years.

According to the complainant, one MLA firmly shut the door of the room and he was made to sit between the two MLAs, one of whom was Shri

Amanatullah Khan, on a three seater sofa. The Chief Minister directed the complainant to answer the MLAs and explain the reasons for delay in

release of the TV campaign, to which the complainant replied that the officers were bound by guidelines of the Hon'ble Supreme Court and any

advertisement that has to be released, must be in consonance with the said guidelines. The MLAs started shouting at him, abused him while blaming

him and the bureaucracy for not doing enough for the publicity of the government. One MLA, whom he could identify, threatened that the complainant

will be confined in the room for the entire night unless he agrees to release the TV campaign. The complainant was also threatened that he would be

impleaded in false case including under the Scheduled Caste/Scheduled Tribe Act. The MLA whom he could identify became more aggressive and

abusively extended threats of life to him. Then suddenly Shri Amanatullah Khan and other MLA on his left side, whom he could identify, without any

provocation from the complainant started hitting and assaulting him and hit several blows with fists on his head and temple. The specks of the

complainant fell down and he was in a state of shock. With difficulty he left the room, got into the official car and left the Chief Minister's

residence. The complainant clarified that at no stage did he retaliate or provoke any person in the room despite confinement, criminal intimidation by

extending threat to his life and assault by several MLAs while discharging his official duty. The complainant complained that with the intention to

criminally intimidate, cause hurt with motive to deter him from discharge of his lawful duty, he was compelled to follow unlawful directions. He further

stated that none of the person present in the room made any effort to save him.

3. Learned Senior Counsels appearing for the petitioner contends that of the offences alleged in the FIR only Sections 332 and 353 IPC are non-

bailable being punishable for imprisonment upto three years and two years respectively. Thus the sentence that at best can be awarded to the

petitioner is maximum upto three years or with fine or both. The petitioner has been in custody since 20th February, 2018. Investigation has concluded.

No police custody remand was granted and no police custody remand can now be granted as 14 days period of custody has expired. There is delay in

lodging of the FIR and getting the MLC of the complainant done. Thus the complaint is an afterthought. In respect of the other FIRs noted against the

petitioner in the status report, in FIR No. 183/2014 under Sections 186/353/332 IPC an untraced report has been filed before the learned Metropolitan

Magistrate and FIR No.284/2014 under Sections 186/353/332 IPC has been quashed on the basis of compromise by this Court on 21st March, 2016.

The two other FIRs, that is, FIR No. 224/2016 and 358/2017 are politically motivated. Learned Senior Counsels for petitioner further state that the

petitioner is willing to furnish any undertaking in respect of the conditions to be imposed by this Court and the petitioner be released on bail. 4. Learned

Additional Standing Counsel for the State has taken this Court through the status report and also the fact that the meeting took place in the living room

at the Chief Minister's residence where no CCTV cameras were installed. Complaint by Shri Anshu Prakash was received at 9.30 AM on 20th

February, 2018 by the DCP, North which was then marked to ACP, Civil Lines and thereafter to the SHO, Civil Lines resulting in the registration of

FIR at 1.10 PM on 20th February, 2018 and the incident took place after 12.00 in the intervening night of 19th and 20th February, 2018. Thus there is

no delay in registration of the FIR. The DVRs of the CCTV cameras installed at the residence of the Chief Minister have been seized and sent to the

FSL. Statement of Shri V.K. Jain, Advisor to the Chief Minister has been recorded under Section 164 Cr.P.C. wherein he has supported the

averments in the complaint. Injuries to the complainant have been opined to be simple in nature.

5. Learned Senior Counsel appearing on behalf of the complainant submits that besides the complaint wherein serious allegations have been made, the

conduct of the petitioner is of subverting the due process of law. To pressurize the complainant, on 20th February itself a notice of the meeting by the

Committee of which the petitioner and co-accused Shri Amantullah Khan are members was sent to the complainant for appearing before the

Committee on 21st February, 2018 at 3.00 PM. Thus pressurizing the complainant by ulterior motives, to succumb to the demands of the petitioner and the co-accused.

6. Heard learned counsel for the parties. As noted in the status report statement of Shri V.K. Jain, Advisor to the Chief Minister, Delhi was recorded

under Section 164 Cr.P.C. on 22nd February, 2018 which corroborates the statement of the complainant on the basis of which FIR was registered. As

per Shri V.K. Jain, the complainant was made to sit in between the petitioner and another MLA Shri Amantullah Khan on a three seater sofa.

Thereafter the petitioner and co-accused Amantullah Khan abused him and physically assaulted the complainant with fists blows on the head and

temple. They also extended threat to life to the complainant. Even though the MLC of the complainant was got prepared at around 9.00 PM on

20th February, 2018, the injuries to the complainant indicated therein corroborate the version of the complainant.

7. Indubitably out of the offences made out against the petitioner only Sections 332 and 353 IPC are non-bailable and punishable for a sentence upto

three years and two years imprisonment or with fine or both respectively. No custodial interrogation of the petitioner is required as no police custody

remand was granted. There is also no apprehension that the petitioner would not be available for trial or flee away from justice. Apprehension of the

complainant and the State is involvement of the petitioner in the offences of the nature alleged, the present being the third in line besides other

offences, which apprehension is not unfounded. The concern of the complainant that efforts are being made to harass him can also not be said to be

without any basis for the reason though initially learned Senior Counsel for the petitioner stated that the petitioner is not a member of the Committee

which issued notice to the complainant, however, on being confronted with the notice of the meeting even though not signed by the petitioner, it notes

the petitioner to be member of the said Committee. Faced with this situation, learned Senior Counsel for the petitioner stated that the petitioner is

willing to furnish any undertaking as required by this Court, to ensure that no harassment will be caused to the complainant by the petitioner or any

other person through him. Thus the bail, if required to be granted to the petitioner, has to be with stringent conditions.

8. In view of the discussion aforesaid, the nature of allegations, the sentence provided for the offences invoked if convicted after trial and the fact that

there is no likelihood of the petitioner fleeing away from justice, this Court deems it fit to grant bail to the petitioner. It is, therefore, directed^Â that the

petitioner be released on bail on his furnishing a personal bond in the sum of ☐ 50,000/- with two sureties of the like amount subject to the satisfaction

of the learned Trial Court, further subject to the following conditions:

a. in case the petitioner himself or through someone else intimidates/harasses or obstructs the lawful activity of the complainant, the complainant/State

would be entitled to seek cancellation of bail granted to the petitioner;

b. the petitioner will not, in any way, tamper with the evidence or intimidate or approach any of the witnesses in the above noted FIR;

c. the above noted FIR being the third FIR against the petitioner for assault on a public servant, in case the petitioner indulges in any such illegal act in

future, the bail granted to the petitioner would be liable to be cancelled;

d. the petitioner will not leave the country without prior permission of the Court concerned; and

e. in case the petitioner changes his residential address the same will be intimated to the Court concerned by way of an affidavit.

9. Before disposing of the present petition this Court would like to note that during the course of arguments, the trust deficit between the members of

Legislative Assembly and the Bureaucrats is evident to the hilt. To see that no unforeseen incident occurs in future and also to maintain transparency,

the Government of NCT of Delhi would be well advised to get the meetings inter-se the Legislators and the Bureaucrats videographed.

10. Petition and application are disposed of.

11. Order dasti to learned counsels for the parties.