
(2014) 03 DEL CK 0299

In the Delhi High Court

Case No : Bail Application No. 265 of 2014

Ram Singh Baliyan

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 05-03-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 34, 354, 376, 451

Citation : (2014) 1 JCC 766

Hon'ble Judges : Mukta Gupta, J

Bench : Single Bench

Advocate : Sunil K. Mittal, Mr. Shyam Sharma, Mr. Kshitij Mittal and Ms. Vaishali Mittal, Advocate for the Appellant; Neeraj Kr. Singh, A.P.P. and Monika, S.I. P.S. Malviya Nagar, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Mukta Gupta, J.—By this petition the Petitioner seeks anticipatory bail in case FIR No. 599/2013 under Sections 354/451/506/323/34 IPC registered at PS Neb Sarai wherein subsequently Section 376 IPC has been added. Learned counsel for the Petitioner contends that the abovementioned FIR is clearly a counter-blast to the FIR lodged by the Petitioner against the husband of the complainant herein being FIR No. 548/2013 wherein the Petitioner was beaten brutally subsequent where to he has undergone number of surgeries. The Petitioner was not even present at the place of incident.

2. There is delay in lodging the FIR. Despite the fact that the alleged incident took place in a crowded area in Ashiyana Apartment, where number of families are living, there is no other eye-witness. The Petitioner having undergone number of surgeries was not in a fit physical condition to have gone to the house of the complainant and commit the offence as alleged. Learned counsel for the Petitioner further submits that the Petitioner has already joined the investigation and is willing to join the investigation as and when directed by the IO. Hence, anticipatory bail be granted.

3. Learned APP for the State has taken me though the contents of the FIR. He further states that during investigation the records of the Cell ID of the Petitioner was checked and at the relevant time his mobile phone location was found to be at Kalkaji Temple Metro Station rather than Ashiyana Apartment, Neb Sarai.

I have heard learned counsel for the parties. As per the FIR the complainant has alleged that her husband was in custody in a criminal case at PS Malviya Nagar for the last one and a half month as he had a fight with the Petitioner herein. On 15th December, 2013 when the complainant was with her sister at about 10.30 AM a person knocked at the door which was opened by his sister. The man came inside along with three other persons and the Petitioner. First they asked about the complainant's brother-in-law and when the complainant refused they made her lie down on the bed. The Petitioner torn off her clothes when two of his friends caught of her hand. Thereafter the Petitioner tried to open her salwar on which her sister shouted. On this the Petitioner ran away after giving threats to them and assaulting them. In the supplementary statement recorded on the next date allegations relating to offence u/s 376 IPC were also added. There is ample evidence on record to show that the Petitioner was the complainant in the FIR wherein the husband of the complainant was in custody and repeated bail applications of the complainant's husband have been dismissed. Further, even as per the Cell ID location, the Petitioner was not present at the alleged spot.

Considering the facts and circumstances of the case I deem it fit to grant anticipatory bail to the Petitioner. It is therefore directed that in the event of arrest the Petitioner be released on bail on his furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Arresting Officer/S.H.O. concerned, further subject to the condition that he will join the investigation as and when directed by the investigating officer.

Petition is disposed of. Order dasti.