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

+ **BAIL APPLN. 1514/2016**

LAL CHAND

..... Petitioner

Represented by: **Mr. Vijay Dalal, Advocate.**

versus

STATE

..... Respondent

Represented by: **Ms. Rajni Gupta. APP for the
State with SI P.L.Meena, PS
Aman Vihar.
Mr. Piyush Prabhakar,
Advocate for the complainant.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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29.07.2016

Crl. M.A. No.11412/2016 (Exemption)

Allowed, subject to all just exceptions.

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1. Issue notice.
2. Learned APP accepts notice on behalf of the State. Status be filed.
3. By the present petition, the petitioner seeks anticipatory bail in case FIR No. 662/2016 under Sections 323/341/506/394/308/34 IPC registered at PS Aman Vihar, Delhi on the complaint of Ram Adhar Mehto.
4. Learned counsel for the petitioner contends that initially the FIR was registered for offences punishable under Sections 323/341/506/34 IPC and the petitioner was released on bail, the offences being bailable. However,

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after the statement of the complainant was recorded under Section 161 Cr.P.C. offences punishable under Sections 308/394 IPC were invoked. Thus the learned Trial Court rejected the anticipatory bail application of the petitioner.

5. Learned APP for the State has handed over the status report which is taken on record. It is contended by learned APP for the State that the complainant could not make his statement fully and he made complaint to senior officers that his signatures were taken on blank paper. Thus after the change in the Investigating officer, his statement under Section 161 Cr.P.C. was recorded which shows that the complainant was also inflicted injuries with the handle of the hand pump. Further opinion on the MLC of the complainant was also received which showed fracture on the frontal bone and the injury was opined to be grievous in nature.

6. In the statement of Ram Adhar Mehto recorded on 22nd June, 2016 on the basis of which the above noted FIR was registered, he stated that on 21st June, 2016 at around 12 noon he saw that some persons were breaking open the lock of the gate of neighbourer. They were accompanied by some ladies and when he asked them to restrain from breaking the lock, a quarrel ensued. Someone hit his head by danda. When he went inside his house to save himself, those people caught hold of him and started beating him. His son who was preparing the video on the mobile was also slapped. He complained that he received an injury on his head. He was taken in the PCR van to hospital. As per the MLC two contused lacerated injuries were found on the frontal and right parietal region. On 26th June, 2016 Ram Adhar made complaint seeking modification in the FIR registered. In the

complaint he stated that one of the accused gave him blow by the handle of the hand pump on his head. When he tried to save, the other person hit him by iron rod on his head. Thus he fell down unconscious. He also stated that two ladies snatched the earrings of his wife and looted the property from inside his room. They took away a gold chain of 20 grams and ₹38,170/- in cash. On the basis of this subsequent complaint statement under Section 161 Cr.P.C. of the complainant was recorded on 7th June, 2016. In the statement recorded under Section 161 Cr.P.C. the complainant stated that the petitioner had a danda in his hand whereas two other boys hand handles of hand pump in their hands and the third boy had a iron rod in his hand. All these people entered his house and attacked him with the intention to kill him and inflicted three injuries. He reiterated the allegations that the gold earrings of his wife, one gold chain and ₹38,170/- were also looted. As per the subsequent opinion in the MLC the injury on the frontal bone was opined to be a depressed fracture of frontal bone, thus the injury was opined to be grievous in nature.

7. A perusal of the FIR, complaint and the statement under Section 161 Cr.P.C. would reveal that there is a gradual increase in the role of the assailants.

8. Considering the fact that the role even in the 161 Cr.P.C. statement assigned to the petitioner is only of inflicting an injury by a danda blow, 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 ₹35,000/- with two sureties of the like amount, subject to the satisfaction of the Arresting Officer/SHO

concerned, further subject to the condition that he will join the investigation as and when directed by the Investigating Officer and he will not leave the country without prior permission of the Trial Court.

9. Petition is disposed of.

10. Order dasti.

MUKTA GUPTA, J.

JULY 29, 2016
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