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

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Date of decision: 31.05.2021

+ **BAIL APPLN. 1888/2021 & CRL.M.A. 8445/2021**

KISHAN

..... Petitioner

Through: Mr. Tarun Kumar, Advocate

Versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Panna Lal Sharma, Additional
Public Prosecutor for State with
Inspector Rajinder Singh

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (oral)

The hearing has been conducted through video conferencing.

1. The present petition has been preferred by petitioner seeking bail in FIR No. 517/2020, under Sections 307/147/148/34 IPC, registered at police station Adarsh Nagar, Delhi.
2. The FIR in question has been registered at the instance of complainant Puneet @ Sameer who has alleged that on 06.07.2020, at around 05:30 PM he and his friend were attacked by 5-6 boys who hit them with sword/knife/*danda* and petitioner was named one of those accused. On the

aforesaid complaint, the FIR in question was registered against petitioner and other accused persons.

3. Notice issued.

4. Mr. Panna Lal Sharma, learned Additional Public Prosecutor for State, accepts notice.

5. Learned counsel for petitioner submits that complainant is the Bad Character (BC) of the area and has enmity with petitioner and especially his brother, since they believed that they are witness to one of their crimes committed by him with his associates in the area of Lal Bagh. It is further submitted that in the night of 25.06.2020 the complainant of the present FIR had first attacked the house of petitioner and also fired a gun shot with an intention to kill petitioner and regarding this incident, after a PCR call, DD entry No. 23/A under Sections 107/151 Cr.P.C. was made and the complainant was released on bail the next day. However again on 06.07.2020, complainant with his associates, armed with deadly weapons like swords, iron rods, knives and *dandas* attacked the petitioners and when they were resisted by local persons, who in self defence beaten them up, they took advantage of their injuries and got the present FIR registered against the petitioners.

6. Learned Additional Public Prosecutor for State has opposed the present petition while submitting that in the MLC, nature of injury suffered by the complainant has been opined to be 'grievous' and petitioner has specifically been named in the FIR in question as one of the assailants and also that in the CCTV footage, he is seen carrying a sword and running towards the place of incident.

7. Counsel representing both the sides have been heard and material placed on record has been perused.

8. Case of petitioner is that complainant has animosity against the petitioner. Petitioner is witness to a crime wherein complainant and his associates had stabbed a person in front of his house in broad day light and since then, complainant has been pressurizing petitioner not to be a witness against them. So far as allegation that in the CCTV footage of the incident, petitioner is seen holding sword in his hand, another accused Bobby is also seen carrying knife in his hands, however, he has been granted bail by this Court vide order dated 25.03.2021.

9. Though learned Additional Public Prosecutor for State has opposed the present petition submitting that the role attributed to the petitioner is different from Bobby, however, he is unable to distinguish the same.

10. Petitioner is behind bars since 05.01.2020. Charge sheet in this case has already been filed, but charge has not yet been framed and trial shall take substantial time. In this view of the matter, I am inclined to release petitioner on bail.

11. Accordingly, the petitioner is directed to be released on bail on his furnishing personal bond in the sum of Rs.20,000/- with one surety in the like amount to the satisfaction of the Trial Court/Duty Magistrate, while making it clear that any observation made herein shall not influence either side during trial.

12. The petition is accordingly disposed of. Pending application is also disposed of as infructuous.

13. The petitioner shall not directly or indirectly influence any witness and shall appear before the trial court as and when directed.

14. A copy of this order be transmitted to the Trial Court and Jail Superintendent concerned for information and compliance.

(SURESH KUMAR KAIT)
JUDGE

MAY 31, 2021

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