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

+ BAIL APPLN. 2346/2022

NAINA RANA

..... Petitioner

Through: Mr. Rahul Sharma with Mr.Prabhash
Malik and Mr. Vinay Daggar,
Advocates.

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Mr. Laksh Khanna, APP for State
with SI Vikash Fageria, P.S. Rajouri
Garden.

+ BAIL APPLN. 2807/2022

GEETA

..... Petitioner

Through: Mr. Sudhir Naagar and Mr. Vikrant
Mehta, Advocates.

versus

STATE

..... Respondent

Through: Mr. Laksh Khanna, APP for State
with SI Vikash Fageria, P.S. Rajouri
Garden.

+ BAIL APPLN. 2824/2022

KAUSHALYA

..... Petitioner

Through: Mr. Sudhir Naagar and Mr. Vikrant
Mehta, Advocates.

versus

STATE

..... Respondent

Through: Mr. Laksh Khanna, APP for State
with SI Vikash Fageria, P.S. Rajouri
Garden.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

13.10.2022

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1. Three separate applications have been preferred on behalf of the petitioners under Section 439 Cr.PC for grant of regular bail in FIR No.1088/2021, under Sections 356/367/368/326/307/506/120B/34 I.P.C. registered at Police Station- Rajouri Garden. An earlier application for bail preferred on behalf of petitioner-Kaushalya is stated to have been withdrawn by the petitioner.

2. FIR in the present case was registered on the statement of injured/victim Raman, who had married Menka (another victim/injured) against the consent of her parents on 21.12.2021. However, family members of the wife of the complainant abducted Raman and his wife Menka on 22.12.2021 and after brutally beating him up, his private part was amputated with an axe. Also stab injuries were inflicted. Further, the complainant was thrown in a drain from where he was rescued by his brother and was admitted in AIIMS Trauma Centre.

3. Learned APP for the State points out that as per the case of the prosecution after the solemnization of marriage, when the complainant along with his wife Menka returned to Delhi on 22.12.2021, the family members of Menka got infuriated and threatened to kill him. The complainant approached the Police Station Rajouri Garden on 22.12.2021 at about 7:15 PM and submitted an application for grant of protection. However, while they were returning from the Police Station, the family members of Menka consisting of her father Monu @Rajesh, her uncles Jaswant @ Bhanu and Anil, her brothers Abhishek, Akshay, cousins Aditya, Sahil and Raghav, Aman, Dharmender, Rajak, Vicky Anand, Rahul Sahani and Ram Kumar abducted the complainant and his wife and took them to their house at Sagarpur, where Menka's mother Geeta (petitioner), her aunt Sandhya and

Neelam (bua) and others also joined them and they all together started beating the complainant with *lathis*, *dandas* and belts. During this incident, the grandmother of Menka (petitioner Kaushalya) exhorted that the complainant does not deserve any mercy and directed other family members to chop off the private part of the complainant/Raman in order to eliminate the entire problem. Menka's aunt and mother also exhorted that the private part of the complainant be chopped off. The family members present at the spot caught hold of the complainant and Jaswant @ Bhanu (uncle of Menka) assaulted him with axe and amputated his private part. Thereafter, the complainant was thrown near Sagarpur drain. Further complainant's brother Akash was threatened.

4. Learned counsel for the petitioner in BAIL APPLN. 2346/2022, namely, Naina Rana submits that she is the sister of Menka and was not named in the FIR. Further, no specific allegations have been made against her. It is also submitted that at the time of producing the petitioner before the concerned Court, the complainant stated that she has no objection if bail is granted to the applicants - Naina Rana and Kajal Rana (since granted bail on grounds of pregnancy vide order dated 18.08.2022). It is further submitted that no injury was inflicted by the present petitioner. It is urged that the charge-sheet was filed against two of the co-accused namely Anil Mala and Aasha Mala, who are similarly placed, without being arrested. Petitioner Naina Rana is further claimed to have clean antecedents.

5. On behalf of petitioner-Geeta (mother of Menka), it is contended that no specific role has been attributed to her by the complainant. It is further urged that Geeta was already having a matrimonial dispute with her husband (father of Menka) and they have been divorced and living separately since

December, 2020. It is urged that the only role attributed to the petitioner-Geeta is of exhortation. It is also submitted that the earlier involvements of the petitioner-Geeta as pointed out by the State pertain to the years 2006 and 2016 with reference to cases under Excise Act.

6. So far as the petitioner Kaushalya is concerned, it is submitted by the learned counsel that she is old lady aged about 86 years and is suffering from various ailments. It is further submitted that the 42 cases stated to be pending against her are under Excise Act and some of them are still pending trial.

7. Learned APP for the State, on the other hand, has vehemently opposed the bail applications. It is submitted that so far as the petitioner-Kaushalya is concerned, she is a habitual offender and has been involved in about 42 criminal cases. It is further submitted that Kaushalya exhorted the other members of the family of Menka for amputating the private part of the complainant/Raman. It is pointed out that as per the supplementary charge-sheet, statement of the complainant was recorded on 29.01.2022 wherein a specific averment has been made by the complainant that after the complainant along with Menka was taken to the residence of Menka wherein, he was assaulted by Kaushalya (grandmother of Menka), Geeta (mother of Menka), Sandhya (aunt/*chachi* of Menka) and Neelam (aunt/*bu*a of Menka) along with other persons whom he could identify. Further Jaswant @ Bhanu amputated his private part with axe on exhortation by Kaushalya, Geeta and Sandhya. It is further submitted that so far as the petitioner Naina Rana is concerned, though no overt act appears to have been attributed to her, but steps were not taken by her for protecting both the victims. Lastly, it is submitted that considering the past antecedents of the

petitioners- Geeta and Kaushalya and their close relationship with the complainant/victim Menka, possibility of influencing the material witnesses at their behest cannot be ruled out, if they are released on bail by this Court.

8. I have given considered thought to the contentions raised.

It may be noticed that so far as the petitioner – Naina Rana (sister of victim Menka) is concerned, no active role appears to have been attributed to her. However, so far as the petitioners – Geeta (mother of Menka) and Kaushalya (grandmother of Menka) are concerned, both of them are alleged to have participated in assault and also exhorted family members for amputation of private part of the complainant. It also cannot be ignored that both petitioners- Geeta and Kaushalya have criminal antecedents and petitioner- Geeta in fact was declared as a proclaimed offender (P.O) during the initial stages of the proceedings.

In the facts and circumstances, considering the grave nature of offence, ghastly manner in which the assault was made and considering their role in the incident, no grounds for bail are made out in respect of petitioner/accused Geeta and Kaushalya.

However, since no active role appears to have been attributed to petitioner- Naina Rana, she is admitted to bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the learned trial court and subject to following conditions:

- (i) The petitioner shall provide her mobile number to the Investigating Officer (IO) concerned/SHO concerned at the time of her release, which shall be kept in working conditions at all times. The petitioner shall not switch-off, or change the same without prior intimation to the IO concerned, during the

period of bail;

- (ii) The petitioner shall not indulge in any criminal activity or any illegal activities during the bail period;
- (iii) The petitioner shall not try to influence the witnesses or tamper with the evidence in any manner.

Accordingly, BAIL APPLN. 2346/2022 filed on behalf of the petitioner - Naina Rana is allowed and BAIL APPLN 2807/2022 and 2824/2022 are dismissed.

9. The freedom of choice in marriage in accordance with law is an intrinsic part of Article 21 of the Constitution of India. Even the questions of faith have no bearing on an individual's freedom to choose a life partner and are essence of personal liberty. In view of above, wherever the life and liberty of any individual is concerned, especially in cases of couples legally marrying out of their own freewill and volition, the police is expected to act expeditiously and with sensitivity in accordance with law and take necessary measures for protection and safety of applicants concerned, if they apprehend hostility and concerns for their safety from different quarters including their own family members.

10. It is unfortunate that in this case necessary steps for ensuring the safety and security of the victims/complainant were not initiated by the SHO, Police Station Rajouri Garden on the complaint of victims, taking it in a routine course while they were expected to act with promptitude. The conduct of the concerned police officials in this regard is deprecable and needs to be looked into and necessary action taken. Any such lapse cannot be accepted on behalf of the police.

A copy of this order be accordingly forwarded to Commissioner of

Police, Delhi Police for taking necessary measures for sensitizing the police officials in dealing with such complaints, under intimation to this Court, within a period of four weeks.

Copy of Bail order be also forwarded to Superintendent Jail and the learned Trial Court for information and compliance.

ANOOP KUMAR MENDIRATTA, J.

OCTOBER 13, 2022
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