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

+ **BAIL APPLN. 774/2020**

SANJEEV SHARMA

..... Petitioner

Through Mr. Tanmaya Mehta & Mr. Abhishek
Mishra, Advocates.

versus

STATE (N.C.T. OF DELHI)

.... Respondent

Through Mr. Ashish Dutta, Ld. APP for the
state.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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15.04.2020

The hearing has been conducted through Video Conferencing.

Crl. M.A.No. 5799/2020

Exemption allowed subject to just exceptions.

The application stands disposed of.

BAIL APPLN. 774/2020 & Crl.M.A No. 5798/2020

1. Issue notice. Learned APP for the State, who appears on advance notice, accepts notice.
2. The present petition under section 439 Cr.P.C. read with section 482 Cr.P.C and Article 227 of the Constitution of India has been filed on behalf of the petitioner with the following prayers:

- a. Quash and set aside the order dated 09.04.2020 passed by the Ld. ASJ Smt. Vineeta Goyal in FIR No. 122/2020, P.S. Hauz Khas;
- b. Restore the order of the Ld. MM Swati Gupta dated 09.04.2020 in FIR No. 122 of 2020, P.S. Huz Khas;
- c. Release the petitioner on bail in FIR No. 122/2020, P.S. Hauz Khas.

3. Briefly stated the facts of the case are that the present FIR bearing No. 122/2020 was registered on 09/04/2020 at Police Station Hauz Khas U/s 354/341/323/506/509 IPC against the petitioner for allegedly assaulting two women resident doctors of Safdarjung Hospital after accusing them of spreading COVID-19 in Gautam Nagar area.

4. As per the allegations in the FIR, the complainant who was 29 years old and residing in the area of Gautam Nagar was working as Junior Resident (Casualty) at Safdarjung Hospital and on 08/04/2020 at about 9:30 p.m she alongwith her sister who was also a doctor went to a fruit shop at gate No. 4 of Gulmohar enclave to buy fruits.

5. It is alleged that a person standing at the spot started speaking about social distancing and remarked that the doctors like them were spreading infection in residential areas. The complainant then told the petitioner that she knew the importance of social distancing and tried to reason out with the petitioner but the petitioner got abusive and aggressive and threatened that he would get a case registered against them . It is alleged that when the complainant was about the lave the spot the petitioner assaulted them and even touched them inappropriately.

6. It is submitted by the counsel for the petitioner that the petitioner was granted bail by the Ld. MM on 09.04.2020 at about 3 p.m which was

cancelled by the Ld. ASJ on the very same day. It is further argued by the counsel for the petitioner that consequent to the order of cancellation of bail the petitioner surrendered and was taken into custody on 10.04.2020 and since then he is in J.C. It is further argued that the petitioner was only concerned about the social distancing being maintained between people looking into the threats of corona virus. It is further argued that the petitioner has been falsely implicated and he has only protested against the complainant and her sister for not maintaining the social distancing and on this both the ladies became aggressive and told that they were doctors and knew the meaning of social distancing. It is further argued that the petitioner is an interior designer by profession and is suffering from hypertension and diabetes. It is further argued that all the sections except section 354 IPC are bailable. It is further argued that the no useful purpose would be served by keeping him in J.C. and there is all likelihood of petitioner getting infected while in J.C. It is further argued that even the Ld. MM has allowed the petitioner to carry two medicines namely Tendia M and Glycomet GP 2 which shows that the petitioner is suffering from diabetes. It is further submitted by the Ld. Counsel for the petitioner that immediately after the incident the complainant and her sister gave an interview in which no allegations of molestation were made and the allegations of molestation are just an after thought.

7. On the other hand the Ld. APP has vehemently opposed the bail application contending that the allegations are grave and serious in nature and the petitioner rather than being thankful to the doctors attacked and molested them. He further urged that the MLC of the complainant and her sister fully supports their version and statements U/s 164 Cr.P.C have been

recorded. He further submits that statement of fruit seller Janki has also been recorded U/s 161 Cr.P.C.

8. In the instant case the petitioner was admitted to bail on 09.04.2020 which was cancelled on the same day by the Ld. A.S.J. looking into the seriousness of the allegations. As far as the investigation is concerned the statements U/s 164 Cr.P.C have been recorded and statement of one eye witness who was the fruit seller and was present at the spot has also been recorded. The country is passing through a very difficult phase and the doctors are rendering yomen service to the nation. The petitioner being an educated man as stated by the counsel for the petitioner that he is an interior designer by profession should have been respectful to the doctors rather than abusing and threatening them. However, the petitioner in the instant case is in J.C. since 10.04.2020. Admittedly, the petitioner is suffering from diabetes which is evident from the order of the Ld. MM dated 10.04.2020 whereby the petitioner was allowed to carry two medicines as mentioned hereinabove for his medical condition. No useful purpose would be served by keeping the petitioner in J.C. and overcrowding Tihar Jail. Therefore, in view of the above facts and circumstances, the petitioner is admitted to bail on his furnishing a personal bond in the sum of Rs. 20,000/- with one surety of the like amount subject to the satisfaction of the concerned MM/Duty MM. The bail application stands disposed of and the CrI.M.A No. 5798/2020 is also disposed of accordingly.

9. Dasti.

RAJNISH BHATNAGAR, J

APRIL 15, 2020

Sumant