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

+ **BAIL APPLN. 606/2014**

DEVENDER GOEL

..... Petitioner

Represented by: **Ravi Bassi, Adv.**

versus

STATE

..... Respondent

Represented by: **Ms. Meenakshi Chauhan, APP**
with SI Sanjay Kumar, PS
Madhu Vihar.
Mr. Lalit Kumar, Adv. for
applicant.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

29.11.2016

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CrI.M.As. 5638-5640/2015

1. Bail application No.606/2014 was disposed of by this Court vide order dated 19th May, 2014 noting as under:-

“1. By this petition the Petitioner seeks anticipatory bail in case FIR No.167/2014 under Sections 354/354D IPC registered at PS Madhu Vihar, Delhi.

2. Learned counsel for the Petitioner states that a totally false and fabricated FIR has been registered against the Petitioner so as to extort money at the instance of one Mr. D.K. Dass who is stated to be the father of the Complainant in the present FIR. However, actually the name of the Complainant is Ms. Akansha Bhatt who is the daughter of Sh. Mohan Lal Bhatt. Earlier also Akansha Bhatt had filed a complaint against one

Ishwar Verma levelling allegations of physical assault which case was later withdrawn by her. Learned counsel for the Petitioner has placed on record the documents of the Complainant whereby she has forged the certificates in her name as Sarah Dass though her name is actually Akansha Bhatt. As per the FIR the Petitioner who is a resident of Plot No. 608, Sector -4, Vaishali, Ghaziabad having Mobile No. 9810230404 had been sexually harassing the Complainant and stalking her since August, 2013. The Complainant alleges that the Petitioner has made her life hell, abused her on phone and also threatened her to eliminate her father. On 31st January, 2014 at around 7.30 p.m. she went to Madhu Vihar Market, while coming back home after getting some household articles at 9.00 p.m., the Petitioner caught hold of her for sexual favours. She shouted at once and started running. Two-three passerby tried to caught the Petitioner but he ran away. She narrated the entire incident to her father who called up the advocate and thus the present FIR was lodged.

3. *During investigation mobile call records of the Petitioner were checked to ascertain the presence of the Petitioner as the Petitioner claimed that on 31st January, 2014 he was present at Bullandshehar and Secunderabad, U.P. to attend the farewell ceremony of his brother-in-law. As per the call records the CDR of the Petitioner's mobile phone No. 9212127404 and 9810230404 were obtained from the receptive Nodal Officers and the location of the Petitioner's mobile No. 9212127404 was found to be in Bullandshehar and Secunderabad, U.P. West at 1535*

hours to 2235 hours on 31st January, 2014. Even the location of Mobile No. 9810230404 was found in roaming at 1822 hours. Prima facie it is thus apparent that the Petitioner was not present at the spot when he is alleged to have misbehaved with the Complainant.

4. *The Petitioner has already joined the investigation. 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/SHO concerned, further subject to the condition that he will join the investigation as and when directed by the Investigating Officer.*

5. *Learned counsel for the Petitioner has placed on record the documents showing that the Complainant has got prepared her school certificate etc with the name of Sarah Dass daughter of D.K. Dass though she is actually Akansha Bhatt daughter of Sh. Mohan Lal Bhatt. Copy of those documents have been handed over to the Investigating Officer SI Rajpal Singh, PS Madhu Vihar, who will investigate the matter and take appropriate action in accordance with law.”*

2. After this bail application was disposed of on 19th May, 2014, D.K. Dass who was not even a party to the petition without seeking impleadment filed three applications being CrI.M.A. 5638/2015 seeking enquiry into the offences committed by the petitioner, CrI.M.A. 5639/2015 seeking vacation of order dated 19th May, 2014 and CrI.M.A. 5640/2015 seeking summoning

of record of CrI.M.C. 1572/2014 and the bail application.

3. The record of the bail application was before this Court. Vide order dated 2nd September, 2016 this Court asked learned counsel for the applicant to satisfy this Court on the maintainability of the applications filed by the applicant in a disposed of matter without even seeking impleadment.

4. Learned counsel for the petitioner relies upon decisions reported as (2003) 2 SCC 76 N. Natarajan Vs. B.K. Subba Rao and (1940) 42 BomLR 231 Bhagwandas Narandas Vs. D.D. Patel & Co..

5. In N. Natarajan (supra) the Supreme Court held that though any citizen of the Country can approach the Court even under Section 340 Cr.P.C. however the Court will have to act in the interest of justice.

6. In these applications, the applicant admits that the victim was his foster daughter and M.L. Bhatt was her biological father which fact was also mentioned by learned counsel for the petitioner in the bail application and thus it cannot be said that either incorrect facts were brought to the notice of this Court or forged or fabricated documents have been filed. As noted vide order dated 19th May, 2014 copies of the documents were handed over to the investigating officer SI Rajpal Singh, PS Madhu Vihar who was directed to investigate the matter and take appropriate action thereon in accordance with law. Since investigation on the issues was already directed, no case either for proceedings under Section 340 Cr.P.C. against the petitioner Devender Goel or vacation of the order granting anticipatory bail is made out.

7. Applications are dismissed.

MUKTA GUPTA, J.

NOVEMBER 29, 2016/‘V MITTAL’