

\$~1

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ BAIL APPLN. 2263/2015 & CrI. MA 4291/2016
RAJIV RANJAN SINGH @ RAJU SINGH

..... Petitioner

Through Mr Ramesh Gupta, Sr. Adv. alongwith Mr
Rakesh Kumar, Advs.

versus

STATE (NCT OF DELHI)

..... Respondent

Through Mr Akshai Malik, Additional Public
Prosecutor for the State alongwith Sub
Inspector Suresh Sharma Police Station
Kalkaji, New Delhi
Mr Kapil Gupta and Mr Mrinal Srivastava,
Advs. for complainant alongwith
complainant in person

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% 04.04.2016

Vide this application under Section 439 of Cr.PC, the petitioner seeks regular bail in case FIR No. 405/2013 under Section 420/376 IPC registered at Police Station Kalkaji, Delhi.

The FIR in the instant case was registered on the basis of a complaint of 'S' wherein she alleged that while she was staying at C – 74-B, 1st Floor, Kalkaji, the petitioner – Rajiv Ranjan Singh from Patna approached her family in August, 2012 for marriage through Pandit – Pramod Kumar Mishra. He projected a glorified picture of his business having turnover of more than Rs.100 crores. A small *rokka* ceremony was held in September, 2012. Thereafter, the petitioner started making telephone calls to the complainant and expressed his willingness for an early marriage. He used to stay at Hotel Ghyama International (Delhi) situated at C – 5/32, Safdarjung Development Area opposite IIT Main Gate, New Delhi where he forced the complainant to have physical

relations with him in the name of marriage. The engagement was held on 15.03.2013 in which cash of Rs.2.5 lac, number of gifts, jewellery worth Rs.3/4 lacs, etc. were given to the petitioner by the complainant's family. After engagement with the complainant on 15.03.2013 initially the marriage date was fixed for 05.05.2013 which was later on changed to 19.05.2013 and then 07.07.2013. Ultimately, it transpired that the petitioner is already married to Chanchala Singh and has two daughters aged about 11 years and 5/6 years. The petitioner informed the complainant and her family that he had booked the marriage venue at Ashoka Patliputra, Patna. When the complainant alongwith her mother went to see the venue of marriage, they come to know that there was no booking of venue in the name of the petitioner. On the pretext of need of money in his business, the complainant transferred Rs.2 lac from her account to the account of M/s R.K. Enterprise and Praveen Kumar. It is further alleged that on the false pretext of marrying her, the petitioner took the complainant to Shyama International Hotel and have sex with her. Her consent was obtained by misrepresentation which is not a consent in the eyes of law. The petitioner was well aware of the fact that since he is already married, he could not marry the complainant. He committed a fraud upon her as such action was prayed.

Learned Senior Counsel for the petitioner submits that the complainant herself was a divorcee and divorce took place on 08.11.2012. However, the factum of complainant being already married was not disclosed to the petitioner and, therefore, during subsistence of first marriage how could *rokka* ceremony be performed in September, 2012. It was further submitted that the complainant herself is not an innocent lady. She is a highly qualified woman possessing an MBA degree and is running a management institute under the name and style of 'Lead Institute of Management and

Entrepreneurship at Patna. She has connections with notorious criminals and land mafias in Bihar. She herself is a habitual offender and several criminal cases are pending against her in Patna for committing offences like cheating, forgery, illegal and forcibly grabbing properties etc. The complainant was well aware about the marital status of the petitioner and even this fact was never concealed by the petitioner from the complainant. Since the petitioner is a well-known businessman of Patna and a very rich person having huge properties and running business hence the complainant, under the greed of his huge properties and businesses, trapped the petitioner and insisted him to marry. However, she could not succeed in her ulterior designs. No case under Section 420 or 376 IPC is made out against the petitioner as even if the allegations as made in the complaint are accepted to be true then the complainant had voluntarily with her free consent indulged in alleged physical relations. The investigation is already complete; charge-sheet has already been submitted by the police as such the petitioner is not at all required for any custodial interrogation or for any recovery; he is languishing in jail since 19.01.2015; there is no apprehension of his fleeing from justice or tampering with the evidence as such the petitioner be released on bail. Reliance was placed on ***Rohit Chauhan v State (NCT of Delhi)***, SCC On-Line Del. 2106 and ***Nirmal Vaid v State NCT of Delhi***, [Bail Appln. No.1760/2012].

The application is vehemently opposed by learned counsel for the complainant, who, at the outset, referred to the conduct of the petitioner by submitting that the petitioner is a habitual offender and is involved in as many as 10 cases. Even as regards the instant FIR, counsel submits that an application for grant of anticipatory bail was moved by the petitioner before the learned Additional Sessions Judge on 3.12.2013

stating that he is unmarried and had no children and is not involved in any other case. However,, he admitted of having proposed the complainant for marriage and also had sexual intercourse with the complainant. Based upon the said statements, interim protection was granted to him and he joined the investigation. However, on 17.12.2013 when it was brought to the notice of the Court by the complainant as well as by learned Additional Public Prosecutor for the State that the petitioner was already married having two children and was involved in as many as three other cases, his application was dismissed. Thereafter, he approached this Court for grant of anticipatory bail. However, taking note of the fact that the petitioner is a married man and also had two children aged about 11 years and 5/6 years, which fact was not disclosed to the complainant, the application for anticipatory bail was dismissed vide order dated 13.01.2014. The SLP preferred by the petitioner against the said order was also summarily dismissed on 10.02.2014. Another application under Section 438 Cr,PC was made before this Court which, however, was withdrawn on 24.07.2014. Thereafter petition for quashing of the FIR was filed on behalf of the accused which was withdrawn vide order dated 16.01.2015. After dismissal of his bail application by learned Additional Sessions Judge, since the petitioner did not join investigation, non-bailable warrants were issued by learned Metropolitan Magistrate which, however, could not be executed as he was absconding and evading his arrest, as such, proceedings under Sections 82/83 Cr.PC were initiated against him and ultimately he was declared a proclaimed offender vide order dated 28.07.2014 and charge-sheet was submitted on 30.10.2014. The petitioner thereafter was arrested on 14.11.2014 by the local police of Police Station Gaurichak, District Patna, Bihar in some other case. After the complainant came to know about this

fact, the Investigating Officer was apprised of this fact and thereafter production warrants were issued by learned Metropolitan Magistrate. He was produced before the Court and then he was arrested on 18.01.2015 in this case. Counsel further submits that since the application for grant of anticipatory bail was moved by misrepresenting and giving false facts as such the complainant moved an application under Section 340 read with Section 195 Cr.PC for initiating proceedings against the petitioner and vide order dated 23.08.2014 a complaint has been filed by learned Additional Sessions Judge against the petitioner. Subsequently the accused filed regular bail applications before the Court of learned ASJ which were dismissed on 3.06.2015, 30.06.2015 and 28.09.2015. Under the circumstances, the conduct of the petitioner disentitles him to any relief. Even on merits of the case, there are serious allegations against him and, therefore, the petitioner does not deserve to be released on bail.

The application is also opposed by learned Additional Public Prosecutor for the State who also refers to the conduct of the petitioner and the seriousness of allegations levelled against him. In addition, a further status report has been filed showing pendency of the following cases against the petitioner and their status:

S.No.	FIR No. & Date	Section of Law	Police Station	Present Status
1.	74/2014 dt. 23.03.2014	420/467/468/471/120B/386/366/34 IPC & 27 Arms Act	Gaurichak, Patna	Pending investigation
2.	107/2009	364/120B IPC	Danapur	Pending trial
3.	188/2011 dt. 19.09.2011	420/406/467/471/120B/34 IPC	S.K. Puri, Patna	Pending trial
4.	16/2014 dt. 16.01.2014	147/148/323/384/503 IPC	Agamkuan, Patna	Pending investigation
5.	168/2013	341/323/427/379/504/447/506/34 IPC	S.K. Puri, Patna	Closed
6.	405/2013 dt. 10.09.2013	420/376 IPC	Kalkaji	Pending trial

7.	CC No.2511(C)/2013, M/s Princeton Niketan Pvt. Ltd. vs. Rajiv Ranjan	406/420 IPC	-	Subjudice before learned CJM, Patna
8.	CC No.1905/13, Pramod Kr. Mishra v. Rajiv Ranjan	406/420 IPC & 138 NI Act	-	Subjudice before Ld. CJM, Patna
9.	CC No. 2113/2013, State of Bihar vs. Rajiv Ranjan	406 IPC & 138 NI Act	-	Proceeding in the case has been stayed vide order dated 11.04.2014 passed by Hon'ble High Court of Patna in Crl. Misc. No.15874/2014 titled Rajiv Ranjan v. State of Bihar
10.	CC No.34/1/14 titled Parul Singh v. Rajeev Ranjan	177/196/200/209 IPC	-	Sub-judice before Ld. CMM, Saket Court, New Delhi

It is, therefore, submitted that the allegations are serious in nature. Moreover, in case the petitioner is released on bail, there are every chance of his fleeing from justice. The case is at its initial stage and so far even charge has not been framed as such he is not entitled to be released on bail.

In rebuttal, learned Senior Counsel for the petitioner submits that the complainant is also involved in five cases and, therefore, is not an innocent lady. It was not disputed that the anticipatory bail of the petitioner was dismissed even up to Hon'ble Supreme Court. As regards initiation of proceedings under Section 340 Cr.PC is concerned, it is submitted that the averments made in the application were not supported by the affidavit of the petitioner and in any case he will face the consequences in that case. Earlier, when interim protection was granted to him by learned Additional Sessions Judge he had joined investigation; trial is going to take a long time as such it is prayed that the petitioner be released on bail.

In *Neeru Yadav v State of U.P. and Others*, 2015 X AD (SC) 265, the Hon'ble Supreme Court was considering the circumstances in which a person is to be enlarged on

bail. Reference was made to ***Ram Govind Upadhyay v Sudarshan Singh***, (2002) 3 SCC 598 wherein it was laid down that the grant of bail though involves exercise of discretionary power of the Court, such exercise of discretion has to be made in a judicious manner and not as a matter of course. In the said case, reference was made to ***Prahlad Singh Bhati v. NCT of Delhi (2001) 4 SCC 280***, and thereafter the court proceeded to state the following principles:-

- “(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.
- (b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.
- (c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.
- (d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

In ***Prasanta Kumar Sarkar v. Ashis Chatterjee***, (2010) 14 SCC 496 while dealing with the court's role to interfere with the power of the High Court to grant bail to the accused, the Court observed that it is to be seen that the High Court has exercised this discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in catena of judgments on that point. The Court proceeded to enumerate the factors:-

“9. ... among other circumstances, the factors [which are] to be

borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail.”

In *Neeru Yadav* (supra) the accused was released on bail by the High Court. The challenge was laid by way of Special Leave to Appeal by the victim. It was alleged that besides that case, the accused was also involved in as many as 7 other cases. Hon’ble Supreme Court observed that without taking into consideration the criminal antecedents of the accused, the bail was granted by the High Court, resultantly, the appeal was allowed and the order passed by the High Court was set aside.

Reverting to the application in hand, as per the list annexed with the status report filed by the State, the petitioner is involved in many other cases. Learned Senior Counsel for the petitioner, however, submitted that out of 10 cases listed in the status report, as per the status report – one case has been closed; one complaint has been filed by learned Additional District and Sessions Judge for initiating proceedings under Sections 340

Cr.PC, one is the present FIR. The other cases are either pending investigation or sub-judice before the Courts, but none of them are very grave and serious in nature.

This submission is not fortified by the status report which reflects that the petitioner is involved in serious offences.

Besides, one of the considerations for grant of bail is whether there is possibility of the petitioner to flee from justice. The conduct of the petitioner is writ large which reflects that the application for grant of anticipatory bail was moved mentioning incorrect facts as reproduced by learned Additional Sessions Judge in his complaint dated 23.08.2014 as follows:

“...the applicant is an unmarried person and sacrifices his life for the survival and upliftment of his family as he has decided not to marry with anyone...that I am still unmarried and not having any wife and daughters... as alleged in FIR...that I have never cheated any person and even any single complaint/FIR has been made by anyone against me except the present FIR... that I have no any criminal background and no any case / investigation is pending...”

While making complaint, it was observed that false facts were averred by the petitioner as he was not only married but had two daughters. Moreover, he was involved at least in three criminal cases vide FIR Nos. 107/2009, 188/2012 and 168/2013.

Learned Senior Counsel for the petitioner has placed on record the unsigned copy of the anticipatory bail application. Every application is required to be supported by an affidavit. Although the copy of the application has been filed but curiously the supporting affidavit has not been filed in order to show as to who has filed the affidavit alongwith

this application. Furthermore, after the dismissal of the bail application by learned Additional Sessions Judge, an application for anticipatory bail was moved by the petitioner before this Court, which did not find favour and the SLP preferred by him was without any success. Subsequently another application for grant of anticipatory bail was moved which, however, was dismissed as withdrawn. Copies of various proceedings have been filed by the complainant to show that after dismissal the application under Section 438 Cr.PC by learned Additional Sessions Judge, non-bailable warrants were issued against him but he evaded his arrest with the result the process under Section 82/83 Cr.PC were initiated against him and thereafter he was declared an absconder. Even thereafter he did not surrender before the Trial Court and it was only when he was arrested by the Court at Patna in some other case that production warrants were issued by learned Metropolitan Magistrate whereupon he was produced and was taken in custody in this case. That being so, the conduct of the petitioner itself is reflective that the apprehension of the prosecution as well as the complainant that in case the petitioner is enlarged on bail, the possibility of his fleeing from justice is not unfounded.

Besides the conduct of the petitioner, the allegations levelled against him in the FIR are serious in nature. After concealment of material facts that the petitioner was already married having two children, the petitioner entered into an engagement ceremony with the complainant and had physical relations with her on the representation that he will marry her. Although the marriage was fixed for 05.05.2014, but it was postponed till July, 2014. Moreover, according to the complainant, for the purpose of booking the venue of marriage, money was given to the petitioner but to her shock no such venue was booked by the petitioner despite taking money from her.

Much emphasis has been laid by learned Senior Counsel for the petitioner for submitting that the complainant herself is not an innocent lady. She was already married and involved in some cases. The involvement of the complainant in some cases does not come to the rescue of the petitioner in making misrepresentation to her that he is unmarried or to induce her to indulge in physical relations on the pretext of marriage.

Keeping in view the aforesaid circumstances, at this stage, when even charge has not been framed and the prosecutrix is yet to be examined, I do not deem it fit to release the petitioner on bail.

The bail application is accordingly dismissed.

It is, however, clarified that nothing stated hereinabove shall tantamount to expression of opinion on merits of the case.

Pending Crl. MA also stands disposed of.

SUNITA GUPTA, J

APRIL 04, 2016/*rd*