

\$~12

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

+ **BAIL APPLN. 2335/2017**

ANIL KUMAR

..... Petitioner

Through: Mr.Avadh Kaushik, Advocate.

versus

STATE NCT OF DELHI

..... Respondent

Through: Ms.Rajni Gupta, APP for the State
with Insp. Saroj Bala, PS Ambedkar
Nagar.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

16.11.2017

CRL.M.A.18774/2017

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

BAIL APPLN. 2335/2017

1. By way of this application filed under Section 438 Cr.P.C. the petitioner is seeking anticipatory bail in FIR No.451/2017 under Section 354A IPC and Section 8 POCSO Act, registered at PS Ambedkar Nagar, New Delhi.
2. Notice. Learned APP as above accepts notice. Status report has been filed on behalf of the State and copy of the same has been given to the learned counsel for the petitioner.
3. After giving an opportunity to the learned counsel for the petitioner to go through the status report, arguments were heard.

4. The second application by the petitioner Anil Kumar, seeking anticipatory bail has been dismissed by the learned Trial Court on 7th November, 2017.

5. Learned counsel for the petitioner has submitted that the petitioner has no role in this case and his mobile, which was inadvertently left at the spot, has been misused. The parents of the child victim are present in the Court and his personal life and liberty cannot be taken away despite he being the saviour of the victim.

6. The FIR No.451/2017 under Section 354A IPC & Section 8 POCSO Act, PS Ambedkar Nagar, New Delhi has been registered on the basis of the statement made by the father of the child victim wherein he has levelled allegations against the shopkeeper Kishan Lal Verma, who is running a shop in his neighbourhood. As per the FIR, on the date of occurrence i.e. 26th September 2017, at about 6:00 PM, his daughter had gone to take mustard oil but the shopkeeper took her inside the shop and molested her. He also offered to give her item free of cost and was insisting for *ganda kaam*. The complainant also mentioned that he had done this '*ched khani*' twice on that day and he had been doing it for the past one year.

7. The Status report filed by the State reads as under:

“During investigation of the above case, statement U/s 164 Cr.P.C. of the victim girl 'K' was got recorded before the Hon'ble Saket Court, New Delhi in which she stated that the alleged Kishan Lal @ Ram Kishan pressed her breast, molested her and also touched her private parts (Urinal parts) and threatened for not disclosing this incident with anybody of her family members. The accused Kishan Lal @ Ram Kishan was arrested and during investigation found that the neighbouring shopkeeper of the above accused, Harish Aggarwal S/o Sh.Ramesh Chand recorded 'video recording' of the above incident by his mobile phone just to show the incident to the

family members of the above accused Kishan Lal @ Ram Kishan. The above Harish Aggarwal was arrested and his Mobile Phone was seized and sent to FSL, Rohini, New Delhi for expert opinion. During investigation accused Harish Aggarwal disclosed that just after recording of the above video his friend namely Anil Kumar (Petitioner/Applicant) took his mobile phone and said video he himself forwarded that video to his own mobile phone and then he viral the said video to various persons from his mobile phone at social media i.e. Whatsapp the mobile phone of the petitioner/applicant is to be recovered. The accused Kishan Lal @ Ram Kishan is on regular Bail by the Hon'ble Delhi High Court and accused Harish Aggarwal is on regular bail by the Hon'ble Court of Sessions, Saket Court Complex, New Delhi. The anticipatory bail application of the petitioner was dismissed twice by the Ld. ASJ, Saket Court. The Mobile Phone of the accused/applicant is to be recovered from him."

8. The allegations against the present petitioner Anil Kumar have been noted by the learned ASJ as under:

'Anil downloaded the video clip of sexual assault committed by co-accused Ram Kishan, from the mobile phone of co-accused Harish Aggarwal and circulated the same on social media'.

9. Taking into consideration that the video clip pertaining to the sexual assault committed on a child victim was allegedly downloaded and circulated on social media by the petitioner and his custodial interrogation is required, in view of the nature and the gravity of the offence, the prayer for release of the petitioner on anticipatory bail is declined.

10. The application is dismissed.

CRL. M.B.2033/2017 (interim bail)

Dismissed as infructuous.

PRATIBHA RANI, J.

NOVEMBER 16, 2017

'hkaur'