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

+ **BAIL APPLN. 1684/2019**

SALIL KUMAR CHATTERJEE

..... Petitioner

Through: Mr. R.S. Mishra and Mr. Upender
Bahadur, Advocates

versus

STATE

..... Respondent

Through: Mr. G.M. Farooqui, APP for the State
Mr. Sudhir Kumar Singh, Advocate
for Complainant alongwith
Complainant in person

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

ORDER

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04.09.2019

This is an application under section 438 Cr.P.C. for grant of anticipatory bail to the petitioner/Salil Kumar Chatterjee.

Learned counsel for the petitioner submits that petitioner is innocent and falsely implicated. The dispute between the petitioner and respondent is civil in nature. In fact, the complainant had sold one of her property for Rs. 31 lakhs and had handed over Rs. 17 lakhs as security to the petitioner in the year 2008-2009. Out of the above said amount of Rs. 17 lakhs, the petitioner has returned the following amount to the complainant on her demand on various occasions:-

- (i) Rs. 12,00,000/- at the time of marriage of the daughter of the complainant in the year 2009.
- (ii) Rs. 1,25,000/- at the time of admission of her son for higher

studies in the year 2012.

- (iii) Rs. 3,00,000/- in cash has been given to the complainant and it stands admitted by the petitioner.
- (iv) Rs. 75,000/- was transferred from ICICI Bank Account No. 127401501687 at Garihat Road Branch of the petitioner to the Bank Account No. 4171000100077 at PN Account, New Delhi of the complainant on 28.09.2017.

It is submitted that allegations for offence under section 376 IPC has been added later on against the petitioner when her statement under Section 164 Cr.P.C. was recorded on 24.08.2018. The first two anticipatory bail applications filed by the petitioner were withdrawn on technical grounds. The third anticipatory bail application has been dismissed on merit by the learned Additional Session Judge. It is submitted that though the complainant is alleged to be involved in four more criminal cases, however, out of these three cases are of very minor offences. So far as FIR No. 27/2012 u/s 419/420/511 IPC is concerned, the petitioner had demanded his consultancy charges from the complainant and because of the demand made by him, he was falsely implicated. It is submitted that all the cases are false and petitioner has been falsely implicated.

It is submitted that the applicant/petitioner is ready to join the investigation as and when required and he be released on anticipatory bail in the event of his arrest, in the interest of justice.

Learned APP for the State opposes the anticipatory bail application and submits that the victim who is a widow had sold her flat located at Sector 16, Rohini, Delhi, in the year 2009 for Rs. 31,00,000/-, for her

daughter's marriage. The accused had, thereafter, started visiting her house and induced her that he would get her gas connection and arrange good job for her son. Accused has cheated the petitioner for a sum of Rs. 20 lakhs and has also made physical relations with her without her consent. He has returned only Rs. 3 lakhs to the complainant. It is alleged that the accused used to meet her at her residence and also used to call her to his residence for return of the amount and at that time made physical relations with her without her consent.

Learned APP has further submitted that petitioner/accused has not joined the investigation. IO had gone to interrogate him at his residence at Kolkata, West Bengal but he absconded from there. He is involved in four other criminal cases bearing FIR No. 7/19 u/s 114/506/509 IPC, FIR No. 357/17 u/s 506/509/427, FIR No. 240/12 u/s 342/289/324 IPC and FIR No. 27/2012 u/s 419/420/511 IPC. Since the accused has failed to join the investigation, NBW has been issued against him on 08.07.2019. It is, therefore, submitted that in view of the serious nature of the allegations, the anticipatory bail application be dismissed.

I have heard the learned counsels and given my thoughts to the rival submissions. The allegations against the petitioner are serious in nature. There are allegations that he has cheated the complainant to the tune of Rs. 20 lakhs. Out of which only Rs. 3 lakhs have been returned. There are allegations that the accused has made physical relations with the complainant, several times, against her consent. As per record, the accused is also involved in the following four cases:-

- (i) FIR No. 7/19 u/s 114/506/509 IPC,
- (ii) FIR No. 357/17 u/s 506/509/427,

- (iii) FIR No. 240/12 u/s 342/289/324 IPC,
- (iv) FIR No. 27/2012 u/s 419/420/511 IPC.

Keeping in view the fact that there are allegations of cheating as well sexual assault and also in view of the fact that petitioner is not joining the investigation and NBW has been issued against him, no grounds for anticipatory bail are made out.

The anticipatory bail application is, therefore, dismissed.

BRIJESH SETHI, J

SEPTEMBER 04, 2019

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