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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2669/2018

DP CHABBRA

..... Petitioner

Through: Mr. Sonal Singh and Ms. Vinita Singh,
Advocates

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Mr. Kewal Singh Ahuja, APP for State

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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11.01.2019

On this bail application, the proceedings recorded on
13.11.2018 read thus :-

“Status report submitted.

When this bail application was taken up in its turn in the forenoon session, the learned Additional Public Prosecutor pointed out the material presented as Annexure P-3 (pages 21 to 24) submitting that the manner in which the same has been included is most objectionable. The said leaves of paper carry coloured printouts of four photographs of a woman, posing in nude or semi-nude indecent postures, though with some efforts made for certain portions being covered. The petitioner's case is that the said photographs are of the prosecutrix who had shared the same with the petitioner on social media, her entire design being to extort money in which context reference is also made to the social media chat, printout whereof has been

submitted as annexure P-4 (pages 25 to 45). The petitioner also relies on certain deposits made, pursuant statedly to the demands of money by the prosecutrix, into her account, printouts of the documents relating thereto being annexure P-5 (pages 46 to 51).

Be that as it may, it was most improper on the part of the counsel for the petitioner to have presented the material in the nature of aforementioned photographs (annexure P-3) in such open condition. She was called upon to explain this conduct and the matter was passed over.

The matter has been taken up again in the post-lunch session by which time the counsel for the petitioner has submitted her affidavit in the registry which has been called for. The said affidavit is taken on record. The counsel regrets the lapse on her part and also orally submitted that she would take utmost care in future while dealing with such cases. In the hope the counsel will be careful in future, the matter in such regard, is presently closed with a direction to the Court Master that the four sheets (pages 21 to 24) presented as annexure P-3 shall be put in an envelope duly sealed by him before the file is returned to the registry at the end of the day.

Given the above mentioned backdrop, explanation of the prosecutrix as to the alleged sharing of the aforementioned photographs, the social media chat and the deposits of money in her account, statedly on her asking, needs to be secured. The investigating officer shall confront the prosecutrix with such material and record her supplementary statement and submit further report on the next date.

Be listed on 11th January, 2019.

Meanwhile, there shall be no coercive steps against the petitioner, subject to he joining investigation as and when called upon to do so.

At this stage, the learned Additional Public Prosecutor for the State informed the court that proceedings under Section 82 Cr.P.C. have already been initiated against the petitioner. The said proceedings shall be kept in abeyance.

A copy of this order shall be sent to the concerned court of Metropolitan Magistrate.”

Status report dated 10.01.2019 has been submitted by the Station House Officer of police station Nabi Karim, which reads thus :-

“In continuation to earlier status report submitted on 13.11.18, it is further submitted that in compliance of order dated 13.11.18, the supplementary statement of prosecutrix has been recorded on 06.1.2019. She stated that she shared the photographs annexed with the bail application and whats app messages. She signed on the each photograph and whats app messages to this effect. As far as transfer of money is concerned, as per account statement of Tapan Majumdar maintained with SBI Bilaspur, Chattisgarh, a payment of Rs. (i) 20.08.18- 20,000 (ii) 29.08.18 =10,000 (3)01.09.2018- 10,000 (ii) 14.09.18= 40,000 is credited as per the pay-in-slips enclosed with the bail application. A payment of Rs. 45000/- through Paytm Wallet has also been found transferred by the present applicant in an account of Abhijeet Mazumdar, son of prosecutrix.

It is therefore, requested that the answering respondent is abide by any order passed in this regard.”

In the above facts and circumstances, the petitioner deserves protection. The process under Section 82 Cr. PC which had been initiated earlier, as indeed the duress processes issued at the stage of

investigation by the Metropolitan Magistrate at the instance of the investigating agency against the petitioner shall stand cancelled and recalled. The Metropolitan Magistrate shall issue formal requisite directions to all concerned in this regard.

Having regard to the facts and circumstances, a case for release of the applicant on anticipatory bail is made out.

Thus, it is directed that in the event of the petitioner being arrested, he shall be released on bail by the arresting officer on furnishing personal bond in the sum of Rs.10,000/- with one surety in the like amount subject to the following further conditions:-

- (i) The petitioner shall continue cooperating with the investigation and join the same as and when called upon to do so;
- (ii) The petitioner shall not come in contact with or try to influence any of the witnesses connected to the case;
- (iii) Prior to his release, he shall give the telephone numbers of self and of at least one other responsible family member besides that of the surety to the investigating officer;
- (iv) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence;
- (v) He shall not leave India without the prior permission of the court of cognizance or the trial court, as the case may be, and to ensure due compliance with this condition and shall deposit his passport, if he holds one, with the said court.

This order will inure only till the date of first appearance of the petitioner in the event of a charge-sheet being filed on conclusion of the investigation and process being issued against him by the court of cognizance.

The petition stands disposed of in above terms.

Dasti.

R.K.GAUBA, J.

JANUARY 11, 2019

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