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

+ BAIL APPLN. 288/2020

SHAILESH

..... Petitioner

Through Mr.J.D. Sharma, Adv.

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through Mr. Hirein Sharma, APP for State.
ASI Saroj PS Chhawla.
Mr.Naveen Tyagi, Adv. with
Mr.M.C. Premi & Ms.Bharti, Adv.
for complainant.

+ BAIL APPLN. 171/2020 & CRL.M.B.134/2020

ROHIT VATS

..... Petitioner

Through Mr.J.D. Sharma, Adv.

versus

STATE

..... Respondent

Through Mr. Hirein Sharma, APP for State.
ASI Saroj PS Chhawla.
Mr.Naveen Tyagi, Adv. with
Mr.M.C. Premi & Ms.Bharti, Adv.
for complainant.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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10.02.2020

1. Vide the present petitions, petitioners seek anticipatory bail in the event of their arrest in FIR No.481/2019 registered at Police Station –

Chhawala.

2. As per the complaint which culminated into the present FIR, complainant got married to Shailesh (petitioner in Bail Appln.288/2020) on 21.11.2016. Her family members had given the dowry articles as per their status, however, her father-in-law, Ramesh, brother-in-law, Rohit, (petitioner in Bail Appln.171/2020), sister-in-law Suman, Sheetal and her husband were not happy with these dowry articles and they used to beat her. Further, petitioner-Rohit was having bad intentions and used to molest her. On 20.10.2018, when complainant was alone at home at about 10 am, Rohit committed rape on her and recorded the same in his phone. He further threatened complainant by telling her that he would put up the recording on internet if she told anyone. After that Rohit raped her several times. When the complainant told her husband, Shailesh, about the incident, he told her to keep quiet. Further, when her husband informed his father about the incident he threatened to disown him from his property. Due to that pressure, her husband also beat her and without her consent he established unnatural sexual relations. When complainant repeatedly told about this incident, he left her at parental home village - Tikri Kalan on 28.02.2019. When she asked him when he would bring her back, he did not pick her phone. On 14.07.2019, she reached marital home then her father-in-law (Ramesh), Brother-in-law (Rohit, Devender), Sister-in-law (Sheetal, Suman), *Chacha Sasur* (Prem), *Tai Sas* (Santosh) started beating her and her sister-in-law Suman tried to grab her neck, she somehow escaped and called on number 100 following which PCR reached there. On 01.12.2019, along with Raghunath, son of Durga came and Raghunath was having pistol, he extended threat to kill her and her family members and brother-in-law

Devender showed her that recording and told her, that she should do as they say, otherwise, the recording will be uploaded on the internet. She narrated the whole incident to her *Tai* (Aunt) Omwati.

3. The case of petitioner is that petitioner in Bail Appln. No.171/2020 is working in ESI Hospital and presently posted at Faridabad. He is only government servant in his family, therefore, false allegations have been levelled against him intentionally and deliberately by prosecutrix at the instance of other family members of the petitioner with whom petitioner is having many disputes and cross FIR's have also been registered.

4. Counsel for petitioners submits that petitioner (in Bail Application no. 171/2020) was residing separately from the house in which the complainant was residing and having no interference with matrimonial life of the complainant. However, she was having matrimonial disputes with her husband, Shailesh who has already filed a divorce petition against her which is pending before the Family Court at Rohini much prior to registration of this present FIR. The FIR was registered on 05.12.2019 by levelling allegations of 20.10.2018 about the rape without any justified delay as to why the matter was not reported by her after the incident and even on 14.07.2019 when she called the police and made complaint of harassment against her husband and his family members. However, she compromised and withdrew her complaint in the police station vide letter dated 14.07.2019.

5. Learned counsel further submits that after registration of FIR, petitioner (in Bail Application No. 171/2020) moved an anticipatory bail application before learned District & Sessions Judge, Dwarka and vide order dated 07.12.2019 interim protection was granted and fixed the matter on

18.01.2020 and was directed to join the investigation with the IO as and when directed.

6. Thereafter IO served him a notice to join investigation and directed him to deposit his mobile phone and accordingly the petitioner joined the investigation and also handed over his mobile phone to the IO and same was seized. The petitioner gave the documents regarding his attendance which were biometrically fixed at his place of service and told the IO that on 20.10.2018, he was on duty at Faridabad from 8 a.m. to 2 p.m. to show that the allegation of rape on 20.10.2018 is false and fabricated one. However, the said document till date has not been verified by the IO from his employer.

7. Further submitted that during investigation, IO also served notices to other family members to join investigation and all the family members also joined investigation because in her supplementary statement, she levelled allegations regarding dowry harassment and entrustment of dowry articles upon the other family members.

8. Learned counsel for complainant has produced some documents and drawn the attention of this Court that as per the defence of Rohit (bother-in-law of the complainant) he was on duty on 10.10.2018 from 7:55:44 to 19:47:33 and on 20.10.2018 from 8:01:26 to 13:28:02 whereas said Rohit (petitioner in Bail Application No.171/2020) appeared in person with Ms.Neha proxy counsel on 10.10.2018 before the court of Monu Garg, MM-07, Dwarka Courts, New Delhi. Moreover, on 10.10.2018, Rohit, who is respondent no.5 in CS No.1568/2016 appeared in person before ADJ-02, Dwarka Courts, New Delhi, thus, the petitioner by his malicious acts has manipulated biometric record of ESIC hospital, Faridabad. Counsel further

submits that due to threat advanced by petitioner Rohit and his family members, she did not disclose the incident of rape of dated 20.10.2018.

9. Fact remains that no such allegations of rape have been levelled by the complainant on 14.07.2018. She first informed the police and thereafter withdrew her complaint. It is evident that she was having dispute with her in-laws and her father-in-law who would disown petitioner Shailesh and complainant from his moveable and immoveable properties. The alleged incident is of 20.10.2018, thereafter her husband filed divorce petition on 17.08.2019 and in complaint dated 14.07.2019, no such allegations of rape have been levelled against the petitioner Rohit.

10. It is not in dispute that father-in-law of the complainant has disowned her husband from the properties and only thereafter she made allegations to put pressure upon the petitioners and their family members.

11. Keeping in view the aforesaid facts into consideration which are subject matter of the trial, this Court is of the considered opinion that petitioners deserve anticipatory bail.

12. Accordingly, IO concerned, is hereby directed that in the event of arrest, the petitioners/ applicants be released on bail on the following terms and conditions:-

- (i) Petitioners shall furnish a personal bond in the sum of ₹20,000/- each with one surety in the like amount subject to the satisfaction of IO concerned;
- (ii) Petitioners shall cooperate with the investigation and make themselves available for interrogation by police officer, as and when required;

13. In case of default of aforementioned conditions, the State is at liberty

to take appropriate recourse in accordance with law.

14. Before parting with the order, it is relevant to mention that nothing contained in this order shall be construed as an expression on the merits of the cases.

15. The petitions are allowed and disposed of.

16. Order dasti under signatures of the Court Master.

SURESH KUMAR KAIT, J

FEBRUARY 10, 2020

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