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

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Order reserved on: 06.12.2019
Order pronounced on: 22.01.2020

+ **BAIL APPLN. 406/2019**

SIDDHANT SHARMA

..... Petitioner

Through Mr. Nitin Mehta and
Mr. Pushpender Singh,
Advocates

versus

STATE (GOVT OF NCT) DELHI Respondent

Through Mr. G.M. Farooqui, APP for
the State with Inspector
Mahesh Kumar, P.S.: DIU/
Outer District
Mr. Rajeev Saxena and Mr.
Rachit Sahney and Mr.
Manish Khurana, Advocates.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J

1. Vide this order, I shall dispose of an anticipatory bail application filed on behalf of the petitioner Siddhant Sharma under section 438 Cr.P.C. r/w. section 482 CrPC in FIR No. 146/18 u/s. 67 of the Information Technology Act, 2000, PS Rani Bagh.

2. Ld. Counsel for the petitioner has prayed for anticipatory bail on the ground that petitioner is innocent and has been falsely implicated in the present FIR. The present FIR is the result of matrimonial dispute between the petitioner and his wife, who has not only filed the present complaint on the false and frivolous grounds but has also filed another complaint u/s. 498-A/406/34 of IPC which has been registered as FIR No. 0186/18 at PS Rani Bagh on 09.08.2018.

3. It is submitted that complainant who is wife of the petitioner has left his company on 05.05.2018 and filed the present complaint u/s 67 of the Information Technology Act, 2000 in which she claims that her picture has been used as profile picture on a fake Facebook profile and there are some other vulgar pictures on the said Facebook profile. It is submitted that the present complaint is counter blast to the revelation of relationship of the complainant with her boyfriend Utkarsh Singh, who were caught red handed by the petitioner. It is submitted that complainant joined Amity University in the month of February, 2017 and soon she got in an extra marital affair with Utkarsh Singh, and started spending time

with him in the university and over the phone and the said relationship is clear from the call records of mobile no. 9999898969, which was used by the complainant between April 2018 to June 2018. When petitioner got to know about the extra marital affair of the complainant, he had brought it to her notice. Initially she did not accept the said fact but later on accepted her infatuation with said Utkarsh Singh and convinced the petitioner that she will not speak with him in future. However, in the month of May, 2018 petitioner had again caught the complainant speaking with said Utkarsh Singh late in the night and pursuant to this, the petitioner and complainant had long arguments and, thereafter, the complainant left along with her parents to her parents' house with all her belongings on 05.05.2018. it is submitted that complainant after leaving the petitioner is still continuing her illicit relationships with the Utkarsh Singh and the same is clear from the receipt obtained from the Hotel booked by the complainant on 06.06.2018 in Noida. Petitioner has managed to get the receipt and the photo-id of the said Utkarsh Singh submitted at the time of check in into the hotel.

4. It is submitted that complaints filed by the complainant are in retaliation to revelation of her extra marital affair and she is using the resources of her father to pressurize him for divorce. On 20.10.2018 when the petitioner went to meet the concerned IO, he was asked to settle the matter and divorce the complainant in a coercive manner, to which he refused and mentioned his willingness to stay with the complainant as husband and wife, forgiving all her misdeeds. The petitioner had moved an application u/s 438 CrPC seeking anticipatory bail before Ld. ASJ, North-West, Rohini Courts, New Delhi. The said application of the petitioner was allowed by the Ld. Trial Court vide order dated 22.12.2018 and it was directed that in the event of arrest, petitioner/applicant be released on bail till 30.01.2019, subject to his joining the investigation and co-operating with the investigating agency. The petitioner had further moved an application u/s 438 CrPC seeking anticipatory bail before Ld. ASJ, North-West, Rohini Courts, New Delhi. However the said application of the petitioner was dismissed by the Ld. Trial Court vide order dated 29.01.2019. The order dated 29.01.2019 itself mentions the fact that the petitioner joined the

investigations and had met the IO on 25.12.2018, 26.12.2018 and has furnished documents proving his attendance on 26.12.2018 and 28.12.2018, however this was ignored by the Ld. ASJ. It is submitted that the petitioner is ready to join the investigation as and when required and in these circumstances, it is prayed that petitioner be granted anticipatory bail and he be released on bail, in the event of his arrest.

5. The anticipatory bail application is opposed by the Ld. APP for the State on the ground that the investigation is still in progress. The petitioner is not cooperating with the investigating officer. He has, therefore prayed for dismissal of the bail application.

6. I have considered the rival submissions. Perusal of the FIR reveals that the same was registered by complainant Ms. Soumya Tara. She has submitted that she has a matrimonial dispute, due to which she is staying at her parental house. She has alleged that on 18.05.2018, her husband visited her parental house and forcibly entered in the bedroom in which she was sleeping and assaulted her physically and threatened her that he would defame and dishonour her image publicly and on various social networking platforms. She

alleged that she found a fake account created on facebook in which her husband has used her picture as profile picture and further uploaded the same on internet. There are other vulgar pictures uploaded along with her picture. On the basis of her statement present FIR bearing No. 146/18 u/s. 67 of the Information Technology Act, 2000, PS Rani Bagh was registered.

7. During investigation, petitioner gave his own statement that the phone bearing number 9560983969 belonged to him and the facebook account registered under his name is logged in through email address claycassius60@gmail.com which was created on 21st May, 2018 by him through his Apple Mobile phone which is still owned and being used by him. On 05th May, 2018 his wife namely Soumya Tara left the house without explaining or giving any reason to him and then told him that she wanted divorce, he was, thus, shocked with this instance and on 22.05.2018 at about 5 PM in the evening he logged into his facebook account claycassius60@gmail.com through his Apple Mobile/ I-phone-4 and uploaded some photographs i.e. demon and an angel dancing together and an angel wearing a demonic mask. After a few days

when he logged into that account, he noticed that the profile picture was edited and instead of the angel it was his wife's photo with the mask. He, however, submitted that he recently came to know that his wife had logged into his facebook account on 22nd May 2018 using her own laptop and the service provider's internet (Vodafone) 9999898969. He has handed over the device I-phone 4S IME:01359800610624 used for creating and using that facebook ID, which was seized vide seizure memo dt. 08.05.2019.

8. During investigation, the petitioner produced two laptops one owned by him and the other one belonging to his younger brother. The MAC IDs of both the devices have been checked by the investigating agency and it was found to be different from MAC ID of the device which was used to upload the edited picture of the complainant on the alleged Facebook ID. The investigation has revealed that CDR of mobile of petitioner shows that he created the Facebook account and he was present at the location i.e. Flat no. 205, Blue Bell, Paramount Flouraville, Sector-137, Noida, UP, where the said router was installed. There is supplementary complaint of the complainant dated 09.09.2019 in which she has

alleged that petitioner is continuously harassing the her and is using her name and picture in his Facebook account (cas.clay.777) to humiliate her.

9. In view of the above facts appearing on record and the fact that custodial interrogation of the petitioner is required for the purpose of recovery of Laptop vide which he has created the facebook account of the complainant and which has not been provided by him to the investigating officer, no grounds for anticipatory bail are made out. The anticipatory bail application is, therefore, dismissed.

BRIJESH SETHI, J

JANUARY 22, 2020.

Amit