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

+ **BAIL APPLN. 2127/2020**

RAJANI SINGH

..... Petitioner

Through Ms Satya Siddiqui, Advocate with
Mr Sarfaraz Ahmed Siddiqui, Mr Zaki Kazmi,
Advocates.

versus

THE STATE

..... Respondent

Through Ms Richa Kapoor, ASC for State.
Mr Somnath Bharti, Ms Amita Sachdeva,
Advocates for complainant.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

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19.08.2020

1. The petitioner has filed the present petition, *inter alia*, praying that she be released on bail in FIR No. 282/2020 under Sections 289 of the IPC registered with PS Malviya Nagar, New Delhi.
2. The said FIR was registered at the instance of one Ms 'S' (name withheld). She had alleged that she was employed by the petitioner and her salary from the petitioner was due to her. She stated that the petitioner had called her on phone and asked to visit her house but she refused to do so due to the outbreak of COVID-19. She claims that the petitioner asked her to come to her residence at night. She went to the residence of the petitioner in the evening of 11.06.2020. She further stated that the petitioner had asked her to carry some clothes and also take a bath at her house. She alleges that

when she reached the petitioner's house and asked for the salary, she was told to have sex for payment of salary. She claims that she refused and on doing so, the petitioner threatened to kill her. She further claims that on her repeated refusals, the petitioner called her pet dog and had commanded the dog to attack her. She claims that she was attacked by the petitioner's pet dog and received brutal injuries. She claims that she lost two of her teeth and was in considerable pain and agony. She stated that she started screaming in pain but the petitioner threatened her to calm down otherwise persons would gather there. She states that she suffered dog bite wounds on her neck and cheek. The said wounds had to be stitched. She states that when she asked for money for the treatment, the petitioner refused to pay by saying that she could do whatever she liked and can complain to the police. She further claims that her son had called the petitioner but she had threatened him that she would lodge a complaint against him if he called her again. After being attacked, the petitioner claims that she went to Pandit Madan Mohan Malviya Hospital for treatment from where, she was referred to Safdarjung Hospital. She states that she is illiterate and did not know how to lodge a complaint with the police.

3. The State has filed a status report stating that the complainant was examined at the All India Institute of Medical Sciences (AIIMS) on 03.07.2020 and considering the nature of injuries suffered by the complainant, a supplementary statement was recorded and commission of an offence under Section 308 of the IPC has also been added in the said FIR.

4. The petitioner was arrested and her pet dog was also seized. The accused (petitioner) was presented before the learned Duty Magistrate, Tihar

Court Complex on 07.07.2020 and was remanded to judicial custody.

5. The status report also indicates that the Medical Board constituted by All India Institute of Medical Sciences (AIIMS) unanimously concluded that the injuries sustained by the complainant were collectively grievous and dangerous in nature, caused by dog bite. The Board also concluded that the duration of all the injuries are consistent with history of the case. It is also stated in the status report that during investigations, voice recordings were also provided by Ms 'S' on WhatsApp which indicate that someone was trying to influence her to withdraw the complaint, however, it is not known from whose mobile number the said calls were made. The status report further stated that the investigation is pending and a final report will be submitted after investigations are complete.

6. The respondent has also filed another compilation, which includes the transcripts of the conversations relied upon by the State. The said compilation also includes the medical opinion of the Board constituted by the AIIMS.

7. Ms Kapoor, learned ASC has referred to the Medical Board Opinion dated 13.07.2020 rendered by the AIIMS Medical Board. The said report indicates that the petitioner was taken to the casualty of Pandit Madan Mohan Malviya Hospital on 11.06.2020 and the Emergency/Casualty Registration Card indicates that the injuries suffered were described as “dog bite (Category III), laceration on right nose, nasal bleeding, deep wound on face, below nose and neck”. Ms 'S' was also referred to Safdarjung Hospital on the same day and the OPD record of Safdarjung Hospital indicates the injuries suffered by her as “clean lacerated wound at left

cheek, 5 cm x 1 cm, no active bleeding”. The victim was also taken to AIIMS and as per the Medico-legal Certificate of AIIMS dated 03.07.2020 (MLC No. 4440/2020), there is “an old scar of dog bite on right cheek. Nature of injury: Simple.”

8. The AIIMS Medical Board took a different view on 10.07.2020. The report indicates that the Board noted each of the injuries on Ms ‘S’. In addition to the other wounds, it is also reported presence of fractures of tips of outer aspect of right upper canine and premolars. It also noticed that there was a scar due to recent healing of a wound, measuring 0.5 c.m. x 0.1 cm with a black *in situ* suture present at upper neck region at midline, 3.5 cm below mentum. The said injuries were found to be serious. The said report also indicates that the Medical Board was of the opinion that the concerned injuries were suffered due to a dog bite.

9. Ms Kapoor earnestly contended that the fact that the earlier medical reports did not indicate the injuries to be serious wound clearly indicate that the petitioner is an influential person and it must be inferred that she had secured the said medical reports, which were relatively benign in comparison to the reports submitted by the Medical Board constituted by AIIMS, by exerting undue influence. She also contended that the transcript of the telephone conversations dated 13.07.2020 between Ms ‘S’ and a friend of the accused indicates that she was being influenced on behalf of the petitioner.

10. Mr Bharti, learned counsel appearing for Ms ‘S’ also submitted that Ms ‘S’ was an illiterate person and therefore, all her efforts to file a complaint were frustrated. He submitted that immediately after the incident

a telephone call at number 100 was made by her, however, the same had been suppressed and the police had not taken any action in that regard. He submitted that he had been repeatedly writing to the higher officials of the police on behalf of Ms 'S' and after considerable efforts, the FIR in question was registered. He further submitted that the necessary sections of the Indian Penal Code, 1860 are not included in the said FIR and after pursuing the matter, he was informed that Section 308 of the IPC is included, however, that too is not the appropriate provision. He submitted that the transcript of the telephone conversation between Ms 'S' and the petitioner, which are available on record, clearly establishes that the petitioner was running a prostitution racket and was compelling Ms 'S' to engage in immoral activities. He referred to the transcript of an alleged telephone conversation between Ms 'S' and the petitioner, which took place on 10.06.2020. He pointed out that during the course of the conversation, the petitioner had asked Ms 'S' to get ready and come. He submitted that this clearly establishes that the petitioner was pursuing Ms 'S' to indulge in immoral activities. The relevant part of the alleged conversation reads as under:-

“Han, Ready Hokar Aana, (inaudible) Yahin Start Ho Gai He”.

Mr Bharti also contended that there is ample evidence available on record to establish that the petitioner has connections with the police authorities.

11. Ms Siddiqui, learned counsel appearing for the petitioner countered the submissions of Ms Kapoor and Mr Bharti. She submitted that there was no question of the petitioner attempting to influence any person. She

submitted that Ms S was attacked by a pet dog of the petitioner's employee kept in the petitioner's house and the petitioner was immediately rushed to Pandit Mandan Mohan Malviya Hospital. She also referred to a transcript of an audio recording of a telephone conversation allegedly between the petitioner and the son of the complainant which took place on 12.06.2020, that is, the day immediately after the date of the incident. She pointed out that the said conversation clearly indicated that a demand was being made by Ms 'S's' son for getting her treated at a private hospital. Apart from the above, she also submitted that the conversation indicated that there was no allegation that the petitioner had commanded the dog attack Ms 'S' but the same was an accident. She further referred to an alleged conversation between the petitioner and the daughter of Ms S which took place on 17.06.2020, whereby the daughter of Ms S had demanded funds from the petitioner. She further submitted that it is also clear from the conversations that it was the petitioner who had taken Ms 'S' to Pandit Madan Mohan Malviya Hospital and Safdarjung Hospital on the said date of the incident to ensure that proper treatment is provided to her. She countered the submissions made by Ms Kapoor that any attempt was made to influence the complainant. Ms Kapoor has referred to the transcript of the alleged conversations, which took place on 13.07.2020. She submitted that the plain reading of the transcript would indicate that caller was attempting to settle the matter with Ms S. The conversation also indicates that Ms S was keen to settle the matter to arrive at a compromise but the petitioner had not responded to her and therefore, she had filed the FIR.

12. I have heard the learned counsel for the parties.

13. The contention advanced by Ms Kapoor and Mr Bharti that the alleged conversations between the petitioner and Ms 'S' that took place on 10.06.2020 established that the petitioner was running a prostitution racket is, *prima facie*, unsustainable. This Court has examined the transcripts of the said conversation and there is nothing in the conversation, which would persuade this Court to accept the same. The tenor of the conversation between the petitioner and Ms 'S' indicates that the petitioner had called Ms 'S' to her house. Ms 'S' had expressed her inability to come at a particular time on account of a COVID-19 casualty in her locality. The petitioner had accepted the same and told her to come later at night. The conversation is a normal conversation and largely relates to COVID-19 casualties in the locality where Ms S and the petitioner resides. Much has been stated about the statement that the petitioner had asked Ms 'S' to get ready and come. A plain reading of the transcript indicates that said statement is a part of a sentence and cannot be read as dis-joined from the remaining sentence. The complete sentence reads as: "*Han, Ready Hokar Aana, (inaudible) Yahin Start Ho Gai He*". This indicates that the petitioner had asked Ms S to be ready because something (which is inaudible) had commenced. This clearly does not indicate that the petitioner was running a prostitution racket and had asked Ms S to come prepared for engaging in sex as is suggested on behalf of Ms S.

14. The contention advanced by Ms Kapoor that the petitioner has been attempting to influence Ms 'S' is also unpersuasive. The transcript of the tele-conversation referred to by Ms Kapoor indicates that the said conversation is regarding exploring the possibility of a settlement between

Ms 'S' and the petitioner. It is not to influence or pressurize Ms 'S' to make any false statement.

15. The said conversation also clearly indicates that Ms 'S' had initially attempted to contact and settle the matter (which would imply persuading the petitioner to pay some money to her) and attempts made by Ms 'S' to do so were not entertained by the petitioner. It was, in fact, Ms S's grievance that efforts to compromise with the petitioner were not accepted by her. If the transcripts of the said conversation are correct, it would clearly indicate that Ms 'S' had filed the FIR only because the petitioner had not entertained her and had not contacted her. Ms 'S' states during the conversation that she cannot be blamed for filing the FIR because she had tried to compromise the matter but the petitioner had refused to pay her any money.

16. This also casts a doubt on the contention that the Ms 'S' had attempted to file the complaint in the first instance immediately after the incident but the petitioner had used influence to thwart the same. On the contrary, it appears that Ms 'S' had demanded some money to settle the matter and since the petitioner did not accede to the same, Ms 'S' had filed the FIR in question.

17. This Court also has reservation as to whether any offence punishable under Section 308 of the IPC is indicated by the material that is currently placed on record. The allegation that the petitioner had attempted to kill Ms S is not consistent with the events; Ms 'S' had been bitten by a dog and the petitioner had rushed her to the hospital. The transcript of the conversations relied upon by Ms Kapoor and Mr Bharti do not indicate that there is any allegation that the petitioner had instructed the dog to attack Ms 'S'. There is

no material on record, which would even remotely suggest that the pet dog in the petitioner's residence had been trained to attack on the petitioner's command and could be used as a weapon to inflict injuries to anybody.

18. The transcript of the conversations filed by the petitioner clearly indicate that petitioner had repeatedly made statements to the effect that she had nothing to do as to how and why the dog had reacted and that was known to Ms 'S'. These assertions were not controverted and it has not even a whisper of suggestion in the conversations that the petitioner had deliberately unleashed the dog on Ms 'S'. The transcript of conversations filed by the state also indicate that there is no suggestion that the petitioner had unleashed the dog on Ms 'S'. It does appear that the petitioner had rushed to rescue Ms 'S' but the dog had bitten Ms 'S'.

19. Ms Kapoor's contention that the fact that the medical report from Pandit Madan Mohan Malviya Hospital, Safdarjung Hospital and AIIMS indicated that the injuries suffered by the victim were simple, establishes that the petitioner was an influential person and had used the influence, to downplay the extent of injuries, is also unpersuasive. It appears that the petitioner had rushed Ms 'S' to Pandit Madan Mohan Malviya hospital and thereafter to Safdarjung Hospital. Both the hospitals are government hospitals and the necessary treatment was provided to Ms 'S'.

20. This Court had pointedly asked Ms Kapoor whether any action has been instituted against any police officials who it is now suggested acted under the influence of the petitioner. She fairly responded in the negative.

21. Photographs of Ms 'S' have been placed on record, which indicates that the wounds suffered by her are gruesome. This is on account of the fact

that there are stitches, which run from the edge of the nose, across the cheek to the back of Ms S's neck. The injuries are also reported as grievous because tips of two of the teeth are fractured. However, there is no controversy that the said wound was inflicted as a result of the bite by a dog.

22. This Court had also inquired as to the breed of the dog and it was reported that the dog was an Indian dog, which was rescued from the streets. Admittedly, it is not any of the breeds, which are considered to be dangerous.

23. Considering the above, this Court considers it apposite to allow the present petition. The petitioner is directed to be released on bail on her furnishing a personal bond in the sum of ₹10,000/- and one surety of an equivalent amount to the satisfaction of the concerned court/duty magistrate. This is also subject to the following further conditions:-

- a) the petitioner shall provide her mobile number and ensure that she is reachable on it at all times;
- b) the petitioner shall not leave the National Capital Territory of Delhi without prior intimation to the IO;
- c) the petitioner shall telephonically mark her presence before the concerned police station on the first Monday of each calendar month and report her whereabouts;
- d) the petitioner shall ensure that she is available for

all proceedings before the concerned court; and

- e) the petitioner shall not contact or try to influence the complainant, her family members or any of the witnesses either directly or indirectly.

24. It is clarified that all observations made in this order are solely for the purpose of considering the present petition and shall not be read as an expression of opinion as to the merits of the allegations in any other proceeding.

25. The petition is allowed in the above terms.

VIBHU BAKHRU, J

AUGUST 19, 2020
pkv/mk