



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

Date of decision: 22nd MARCH, 2022

IN THE MATTER OF:

+ **BAIL APPLN. 1112/2021 & CRL.M.A. 9865/2021**

AKSHAY RAWAT

..... Petitioner

Through: Mr. Sunil Dalal, Sr. Advocate with
Mr. Arpit Bhalla, Mr. Devashish
Bhadauria, Mr. Akash Bhadana, Ms.
Ayushi Sharma, Mr. Aditya Kumar
and Mr. Vishal Chechi, Advocates.

versus

THE STATE, GOVT. OF N.C.T. OF DELHI Respondent

Through: Ms. Meenakshi Dahiya, APP for the
State with SI Usha Yadav, PS
Malviya Nagar.
Mr. Babanjeet Singh, Advocate for
R-2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.

1. Petitioner seeks bail in FIR No. 367/2020 registered at PS Malviya Nagar for offences under Sections 376, 323 and 506 IPC. Petitioner was arrested on 1.9.2020.
2. The facts, in brief, leading upto the present petition are as follows-
 - i. A written complaint was made to the S.H.O. PS Malviya Nagar on 1.9.2020 that the complainant met the Petitioner on Snapchat and he had introduced himself as Aarav Chaudhary working as a pilot in Indigo Airlines and they started talking. The Petitioner



asked her to meet him for dinner, picked her up from Krishna Mandir Khirki Extension and took her to Murthal for dinner. It is stated that on the way to Murthal, the petitioner said that his car was punctured and stopped the car on the highway and told her that until the tire was replaced, they could eat at Haldirams, to which the complainant became uncomfortable and told him she wanted to go home.

- ii. It is stated that the behavior of the Petitioner changed at this juncture, he threatened her and took her to his house at BPTP Park Floor 1, House No. 001 Block G Faridabad Sector 77 and forced her to drink alcohol due to which she vomited. It is stated that the petitioner took her phone away, abused and beat her, and raped her. It is stated that Petitioner took explicit videos of her and took a knife and wrote the initial alphabet of his name on her body and rubbed salt in it. It is stated that the Petitioner threatened to kill her.
- iii. It is stated that the next morning Abhishek, the brother of the Petitioner, came to the flat. On reaching, there was an altercation between the Petitioner and his brother Abhishek. Abhishek booked a cab for the complainant to leave. It is stated that before she left, the Petitioner threatened her with dire consequences of making her videos viral and told her to keep quiet about what happened. It is stated that when the complainant said she will complain to the police, the Petitioner allegedly said that she can do anything as the MLA of the area is known to him and the Police cannot do anything. It was stated



that the complainant did not know how to write a complaint and made her friend write the complaint for her. Based on this information, FIR No. 367/2020 was registered.

- iv. The MLC of the complainant was conducted vide MLC No. 6465/2020 at AIIMS on 31.8.2020.
- v. The statement under Section 164 CrPC of the complainant was recorded by the Ld. MM, Saket District Court on 1.9.2020. Supplementary statement of the complainant was recorded on 2.9.2020 wherein she confirmed the averments in the FIR.
- vi. Investigation was done by the Police. The CDR of the Petitioner and the complainant was summoned from the nodal officers to ascertain their locations on the date of the incident. It was seen that the Petitioner and complainant were talking since 27.8.2020 and their locations were of the same place on 30.8.2020. The ownership details of the Honda City car bearing registration number DL-3C-BA-3718, in which the Petitioner allegedly took the complainant to Murthal, was found to be registered in the name of one Sonia Soin, r/o Kailash Hills, New Delhi which had been transferred to Tarun Bajaj r/o Uttam Nagar and from him transferred to Abhishek Rawat, i.e., brother of the Petitioner. The statement of the OLA cab driver who transported the complainant from the Petitioner's house in Faridabad to Malviya Nagar after one day of the incident, on 31.8.2020, was recorded under Section 161 CrPC.
- vii. Abhishek Rawat, brother of the Petitioner, filed a complaint against the complainant on 12.02.2021 before S.H.O. Tigaon



Police Station and on 13.2.2021 to the Commissioner of Police. In the complaints, it is stated that on 31.8.2020 when he reached his rented apartment i.e. House No.1 First Floor, Block F, BPTP Park, Sector 77 Faridabad, he saw his brother the Petitioner with a girl sitting in bed, eating an omelet and when he did not get a satisfactory answer about who the girl was, he slapped the petitioner and warned the girl to leave the place or he would call the police. The girl started crying and said she belonged to a middle class family. It is stated that she did not have enough charge in her mobile and he booked a cab for her. After she left, the Petitioner told him that he met the girl on Tinder and began talking to each other. It was stated that on 31.8.2020, one SI Narender and two constables came to their house and inquired about Abhishek and took both of them to Malviya Nagar Police Station where they were informed that a case of rape was filed against the Petitioner by the girl who was at their house a day prior. It is further stated that on 07.09.2020, two people who claimed to be relatives of the girl came to his house and demanded 20 lakh rupees within 10 days. On 18.09.2020, he met the complainant near her house and his mother gave 3 lakh rupees to her and she told them to quickly make an arrangement for the balance 17 lakh if they wanted the Petitioner to come out of jail. On 19.9.2020, the assistant of the girl gave a signed declaration to the Petitioner's brother which stated that once payment of 20 lakhs is made to her she would withdraw the case and will help in getting the FIR against the Petitioner quashed



since she had filed it in the heat of the moment and societal pressure. Thereafter, the lawyers of both sides met at Saket Court to draw up the quashing petition. It is stated that on 6.10.2020, he met the complainant and gave her 1 lakh rupees cash, which she said was less and rest 16 lakhs be arranged immediately. Further, it is stated that he mortgaged the family's agricultural lands with the bank and got a loan of Rs. 9 lakh against, the amount was not paid and there was no contact between the Petitioner's family and the complainant till 07.01.2021 when they reached her house and apologized to her, telling her they will make good of remainder 16 lakh rupees and the complainant assured them she will cooperate in getting the FIR quashed if they immediately paid off her loan of 2,60,000/- which she had to clear in two months. She shared details of a bank account in Axis Bank Saket in which the Petitioner's uncle transferred the amount on 12.02.2021.

- viii. The Petitioner's bail was rejected by the Ld. ADJ, District Courts Saket vide order dated 16.3.2021.
- ix. A cross FIR, bearing No. 187/2021 dated 16.9.2021 was lodged at Tigaon, Faridabad for offences under Sections 384 and 389 IPC by the Petitioner against the complainant in which allegations are *pari materia* with the complaints filed by the brother of the Petitioner on 12.02.2021 and on 13.02.2021 before the Commissioner of Police. It was stated therein that the Petitioner was a sepoy posted at Assam Panbari 25 Rajput Regiment, in the Indian Army since 2017 and met her on Tinder



App in April 2020 and started talking to her and shared her Snapchat with the Petitioner's ID in the name of- akkird6921. She voluntarily shared her photos in her inner garments and after the Petitioner returned to his home in July 2020 from Assam, she insisted on meeting the Petitioner and forced him to meet her or else she would commit suicide and name him in his suicide note. It is stated on 26.8.2020, the complainant called him on Whatsapp and told him to call her on normal call, the Petitioner told her that he could not meet her and to stop giving suicide threats to which she implored him to meet or else she would take her life and blame him for it. On 30.8.2020, he states, he picked her up from Malviya Nagar Krishna Mandir at 8pm in his Honda City (DL-3CB-A-3718), she carried a wine bottle in her and started drinking as she sat in the car and asked the Petitioner for 15000Rs., and he said that he had only Rs.8000 and gave it to her. She told him that she could not be seen in any public place as she had many acquaintances in Delhi and the Petitioner agreed to take to his flat at- 001, First Floor, Block F, BPTP Park, Sector 77 on the way to which, near Badarpur Toll, the tire of the car got punctured.

- x. It is further stated that he called his friend Vipul on his mobile phone for help at 9:15pm, booked a cab for the complainant by telling her that they would meet on another day. His friend and the cab both arrived, and she refused to go in the cab stating that she had taken money from him and would not go without returning it. It is stated that at 11:30pm, after the tyre got



repaired, she came along with the Petitioner to his flat and pressurized him to drink alcohol with him. The Petitioner had three pegs and went to sleep while the complainant was in the lobby talking to someone on the phone. It is stated that the next morning, the complainant forced the Petitioner to have sex with him and when the petitioner declined, she brought a knife from the kitchen and told him that she would commit suicide using the knife by writing his name on her body and carved her skin with it, to which the complainant took away the knife and both complainant and the Petitioner had consensual sex. It is stated that the next morning he went out to bring eggs for her and made omelet for them when the brother of the Petitioner, Abhishek Rawat came to the house and enquired about the complainant and why she was there with the Petitioner. He slapped the Petitioner and asked the complainant that he would call the police if she did not leave the house. The complainant pleaded with him to not call the police and said she belonged to a middle class family, her phone had no battery and she could not book a cab. The Petitioner's brother booked a cab for the complainant and she left from the house. It is stated that on the next day, the police officials came to the house and took the Petitioner and his brother were taken into custody, it was informed that the complainant had filed a complaint of rape. It is stated that the Petitioner was arrested on 31.8.2020 and kept in custody till 28.05.2021 and was released on interim bail by this Court.



- xi. It is stated by the Petitioner that after being released on interim bail, it was apprised to him that on 07.09.2020, two persons claiming to be related to the complainant came to Petitioner's house and the complainant demanded 20 lakh rupees in 10 days. The Petitioner's brother and mother arranged for 3 lakhs, and gave it to one Sanjay @ Ajeet, relative of the complainant, who after taking the same, asked him to arrange the remaining 17 lakhs. A few days after, on 19.9.2020 the assistant of the complainant, one Lucky left a declaration with the brother which stated that she had been paid 3 lakh rupees and had to receive remaining 17 lakhs pursuant to which the complainant would withdraw FIR No. 367/2020 at PS Malviya Nagar and the Petitioner's lawyer and the complainant's lawyer met at Saket Court and prepared the quashing petition wherein the complainant committed to sign it. On 6.10.2020, the complainant met Petitioner's brother and took 1 lakh cash which was withdrawn from the ATM, and demanded to make arrangements for balance payment of 16 Lakhs, else she would not withdraw her case. It is stated that the Petitioner's family mortgaged their agricultural lands with the bank and got a loan of Rs. 9 lakh, the amount was not paid and there was no contact between the Petitioner's family and the complainant till 07.01.2021 when they reached her house and apologized to her telling her they will make good of remainder 16 lakh rupees and the complainant assured them she will cooperate in getting the FIR quashed if they immediately paid off her loan of 2,60,000/-



which she had to clear in two months, she shared details of a bank account in Axis Bank Saket which the Petitioner's uncle transferred on 12.02.2021.

3. Mr. Sunil Dalal, Ld. Senior Advocate, appearing on behalf of the Petitioner submitted that the present case is one of honey trap and the Petitioner has been falsely implicated in it. He submitted that the Petitioner is a sepoy in the Indian Army posted in Assam and the complainant approached him on Snapchat in April 2020 and when he returned to Delhi in July, she forced him to meet and consensually established sexual relations with him and on the next morning the brother of Petitioner came and saw them at his house and booked a cab for the complainant. He submitted that the complainant demanded 20 lakh rupees to get the case settled and the FIR withdrawn. He draws the attention of the Court to a declaration signed by the complainant which stated that an agreement to pay the complainant 20 lakhs was arrived at between the parties and that the complainant has received 3 lakhs out of it on 18.9.2020.

4. He adverted to the account statements of the Petitioner's brother where transactions were made into the complainant's bank account, he states Rs.1 lakh was withdrawn on 6.10.2020 from an ATM and Rs.2,60,000/- was transmitted by RTGS into the account of the complainant on 12.02.2021. He submitted that the Petitioner's brother had filed two complaints with the S.H.O. Tigaon Police Station and the Commissioner of Police respectively stating what actually had transpired and the money that he transferred to the complainant. He contended that a FIR at Tigaon Faridabad was registered by



the Petitioner on 07.09.2021 when he was out on interim bail wherein he has narrated in detail the sequence of events that transpired. He submits that the friend of the petitioner had come to his rescue when the tire of his car had burst and had seen the complainant who at the time was intoxicated and refused to be dropped to her home.

5. He further submitted that the complainant at first refused to give her sample signatures to the forensic laboratory to qualify the assertion that she did not enter into any agreement with the Petitioner's brother to settle the case and only after the order of this Court the signatures were sent to the FSL. He submitted that the FSL report concluded that the signatures on the declaration matched with the samples given by the complainant. He submits that Chargesheet stands filed, the evidence is with the Police and there is no chance of tampering with evidence. He submits that the Petitioner is a member of the armed forces and has deep roots in society and has lost two years of his life being in jail as a consequence of being entrapped in bogus proceedings and, therefore, shall be enlarged on bail by this Court subject to any condition imposed by this Court.

6. Ms. Meenakshi Dahiya, Ld. APP, submitted that a FIR of rape was filed by the complainant on 30.8.2020 and her medical examination was done at AIIMS and her clothes were submitted for RFSL examination, the potency test of the Petitioner was done on 02.09.2020 & clothes were taken for examination and it was opined that the DNA found on the clothes of the complainant matched with the DNA samples of the Petitioner. She submitted that after the Petitioner's brother' complaints, his statement was recorded



where he stated the complainant visited his house and proposed to settle the matter and was paid 6 lakh rupees and on 12.02.2021, two lakhs were transferred to the complainant.

7. Mr. Babanjit Singh, Ld. Counsel for the complainant contended that she is a nurse and is engaged in the healthcare industry, and that she was contacted by the Petitioner on Snapchat through a false name Aarav who represented himself as a pilot and believing that to be true, she agreed on his insistence to go for a drive. He submitted that the petitioner forced her to come to his house and raped her and injured her with a knife and threatened her of dire consequences on reporting the incident to the Police. He submitted that the declaration presumably signed by the Petitioner was not signed by the Petitioner and is a sham document to cast aspersions on complainant's character.

8. He submitted that when complainant's account was deposited with 2 lakh rupees, she lodged a query with the bank asking the origin of the said money. He stated that the complainant has been a victim of a very brutal act, and this was taken into account by the Trial Court while refusing to grant bail to him. He submitted that if the petitioner is let out on bail, he will pressurize the complainant. He further made submissions which were not pertinent to the merits of the case.

9. Heard Mr. Sunil Dalal, learned senior counsel for the petitioner, Ms. Meenakshi Dahiya Ld. APP for State, and Mr. Babanjit Singh, Ld. Counsel for the complainant, and perused the material on record.



10. The Status Report states that 2 lakh rupees were credited into the account of the complainant from an unidentified source. On scrutiny of the allegation, it was found that the money had been deposited by one Veer Vikramaditya who at the request of his nephew, Abhishek, had deposited the money into the account of the complainant.

11. The considerations for granting bail are well settled and they have been reiterated from time to time by the Apex Court, which are (i) gravity of the offence and its punishment in case of conviction; (ii) reasonable apprehension of witnesses being tampered (iii) frivolousness of prosecution; (iv) *prima facie* satisfaction of the evidence in support of the allegations. (Refer Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598).

12. The FIR in the case was instituted in August 2020 and the Petitioner has been in jail since 01.09.2020. Investigation in the case is completed and chargesheet has been filed. A reading of the facts cumulatively depict that the Petitioner and complainant were known to each other through social media. The allegation against the Petitioner is that he committed rape on the complainant. The complainant lodged an FIR alleging rape whereafter the complainant's associates demanded money from the Petitioner's family to sweep the matter under the carpet. The Petitioner's brother filed his bank statements wherein entries show that he withdrew 1 lakh rupees on 6.10.2020 from the ATM and this fact has been explicitly stated in the two complaints given by him to SHO and Commissioner of Police as well as in the FIR lodged by the Petitioner in Tigaon against the complainant for extortion. Documents on record show that monies of 2 lakh rupees were



deposited into the account of the complainant by the uncle of the Petitioner at the behest of the petitioner's brother and has this has been confirmed in the status report.

13. Despite the fact that it was stated in the Malviya Nagar Police Station that a declaration has been given by the complainant that she has received 3 lakh rupees as compensation from the petitioner's brother and that she will withdraw the FIR on receiving 17 lakh rupees as compensation, the Malviya Nagar Police Station did not take any steps in this regard. It has also come on record that a sum of Rs.2 lakh had been deposited by the nephew of the petitioner into the account of the complainant.

14. When the learned counsel for the complainant was asked as to why the declaration was given and how the amount was deposited in the account of the complainant, other than making allegations against the erstwhile lawyer of the complainant and stating that it is not difficult in the present day to find out the account number of any person, no satisfactory answer was provided.

15. On 02.12.2021, it was informed to this Court that the original copy of the declaration deed is with the Faridabad Police and it was seized *vide* seizure memo dated 02.10.2021 and is a case property in FIR No. 187/2021 dated 06.09.2021 registered at Police Station Tigaon, Faridabad, Haryana for offences under Section 384, 389, 120B IPC.

16. This Court directed the learned APP to find out whether the declaration deed has been sent to the FSL or not, and what is the result of the FSL. On 09.12.2021, this Court was informed by the learned APP that the prosecutrix has not given specimen signatures and, therefore, the declaration could not be sent to the FSL. This Court on 09.12.2021 directed the prosecutrix to go to Police Station Tigaon, Faridabad to give her specimen



signatures. After great difficulty and lot of efforts, specimen signatures were obtained and the declaration of the specimen signatures were sent to the FSL, Bhondsi, Gurugram, Haryana. The FSL report has been filed along with the Status Report dated 02.02.2022. The FSL report has opined that the signatures in the declaration form are of the prosecutrix.

17. On the one hand, the petitioner is accused of offence of rape. On the other hand, there is an FIR against the complainant for committing offence of extortion, alleging that the petitioner has been falsely implicated in a case of honey-trap. There is material on record to show that there is a declaration duly signed by the complainant agreeing to settle the case at the sum of 20 lakh rupees. There is also material on record which shows that amounts have been deposited in the accounts of the complainant. The question as to whether rape was committed by the petitioner or not, or whether the petitioner has been honey-trapped can be decided only during the course of trial and this Court is refraining itself from commenting on the merits of the case.

18. The petitioner works in the Indian Army and has roots in the society. Chargesheet stands filed. Considering the facts and circumstances of the case, this Court is inclined to grant bail to the petitioner on the following conditions:-

- (i) The Petitioner shall furnish a bail bond of Rs. 1,00,000/- with two sureties in the like amount, one of them being a relative of the petitioner, to the satisfaction of the Trial Court;
- (ii) Memo of parties indicate that the petitioner is the resident of H.No. 21, Village Dhaiholi, P.S. Tigaon, Faridabad, Haryana.



He shall continue to reside at the same address till further orders;

- (iii) The petitioner is directed not to leave NCR of Delhi without the prior permission of the Court;
- (iv) The Petitioner shall give his phone numbers to the I.O. and shall keep them operational at all times;
- (v) The petitioner is directed to drop a pin on the Google Maps so as to ensure his location is available to the I.O. at all times;
- (vi) The petitioner is directed to surrender his passport before the Trial Court;
- (vii) The Petitioner shall not contact the complainant or her relatives, directly or indirectly and shall not come within 5 kms. radius of her residence;
- (viii) The Petitioner shall report to the I.O. through video conferencing once every two weeks since the complainant resides near Malviya Nagar Police Station;
- (ix) The Petitioner shall not tamper with evidence or influence witnesses, directly or indirectly;
- (x) In case the petitioner is directed to join back his service, the petitioner is at liberty to approach for modification of the orders of the Court;
- (xi) Contravention of any of these conditions, if established, would result in the immediate cancellation of bail given by this Court.

19. The observations made in the present petition are only for grant of bail and not on the merits of the case.



NEUTRAL CITATION NO: 2022/DHC/001029

20. With these observations, the bail application is disposed of along with pending applications, if any.

21. Let a copy of this order be communicated to the concerned Jail Superintendent.

SUBRAMONIUM PRASAD, J

MARCH 22, 2022

hsk

