



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

**Judgment reserved on: 21.07.2022**

**Date of decision: 28.07.2022**

+ BAIL APPLN. 1961/2022

SALMA TYAGI

..... Applicant

Through: Mr. Pardeep Teotia, Mr. Harmeet Singh Gulati, Mr. Abhinav Gour & Mr. Naman Shankar, Advocates.

Versus

STATE

..... Respondent

Through: Mr. Shoaib Haider, APP for State with SI Avaneesh Kumar, SI Bharti. Ms. Ruchika Sharma, Advocate for complainant.

**CORAM:**

**HON'BLE MS. JUSTICE ANU MALHOTRA**

**JUDGMENT**

**ANU MALHOTRA, J**

1. The applicant- Salma Tyagi, vide the present application seeks the grant of anticipatory bail in relation to FIR No.288/2022, PS Jagatpuri under Sections 376/506 of the Indian Penal Code, 1860 and Section 6 of the POCSO Act, 2012 submitting to the effect that the applicant has clean antecedents; is aged around 46 years; that she has deep roots in the society; that she comes from a respectable family; that she runs an NGO in the name of Nari Shakti; that she has political ambitions and that she has been falsely implicated in the instant case by the complainant- Jinnat W/o Md. Tanveer who has made false allegations against her, her daughter-Rida Khan and her son- Zeeshan



and Md. Sufi Islam, husband of the applicant herein. (Rida Khan i.e. the daughter of the applicant herein has already been granted anticipatory bail vide order dated 18.05.2022 by the Court of the learned ASJ-01 & Spl. Judge (POCSO)/ Shahdara/Delhi.)

2. The applicant submits that the role attributed to her is lesser than that ascribed to the co-accused named Rida Naaz Khan who has already been enlarged on bail and on the grounds of parity, she, the applicant is also entitled to the grant of anticipatory bail. *Inter alia*, the applicant submits that the complaint is devoid of truth and is an abuse of the process of law with the complainant having made false allegations to implicate the entire family of the applicant to kill her political aspirations and to extract money from her. The applicant further submits that she is ready to join the investigation/ inquiry and her arrest would decimate her future socially and politically.

3. *Inter alia*, the applicant submits that there is no recovery to be effected from her nor at her instance; that her custodial interrogation is not required and no useful purpose would be served by any custodial interrogation or by sending her to judicial custody.

4. Notice of the application was issued to the applicant and the State and the complainant have opposed the same.

5. The State through its status report dated 07.07.2022 submitted under the signatures of the SHO, PS Jagatpuri submitting to the effect that the FIR was registered on the complaint of the victim's mother in which she alleged that a boy named Zeeshan raped her minor daughter and that when she got pregnant, the prosecutrix was forced by Zeeshan and his family members including his mother i.e. the applicant herein,



father and sister (Rida Naaz Khan, already on anticipatory bail) to abort the pregnancy and for terminating the pregnancy, the accused/applicant- Zeeshan, his sister i.e. the co-accused Rida and his mother i.e. the applicant herein gave her abortion pills and after consuming the pills, the victim had some complications and thus, Zeeshan and his sister Rida along with her brother's friend- Kundan took her to the Stree Clinic, KKD Institutional area and there the victim's dilation and curettage (D&C) was done and after registration of the case, the victim was medically examined at Dr. Hedgewar Hospital and her statement under Section 164 of the Cr.P.C. was recorded on 28.04.2022, wherein she supported the prosecution version.

6. The State has further submitted to the effect that during the course of investigation, the complainant provided some documents regarding the victim's medical treatment done after consuming abortion pills which documents are stated to have been sent by accused 'Zeeshan' to the complainant's relatives and when the victim was enquired about these documents, she stated that 'Rida' (the daughter of the applicant herein) along with her friends Kundan and Raja had taken her to the SMS Hospital, Gagan Vihar, for treatment of excessive bleeding and during investigation it was found that the victim was got treated at the SMS Hospital with a fake name Riya, aged 22 years and her DNC was done at Stree Clinic KKD Institutional area, which was found to be true and it was also found that the co-accused Rida had given her personal mobile number at the time of registration at the Stree clinic.



7. The State has submitted further that the applicant pursuant to the order dated 01.07.2022 of this Court joined the investigation but the State submits that she did not accept that she gave any abortion pills to the victim girl.

8. In as much as, the Bail Appln. No.2062/2022 is also pending before this Court, which is an application filed by the co-accused Zeeshan (the son of the applicant herein) in which the statement under Section 164 of the Cr.P.C. of the prosecutrix/ victim had been filed, the Court has thus perused the same. As per the said statement dated 28.04.2022 of the prosecutrix who on that date claimed to be 17 years of age, she *inter alia* alleged that she had been raped by Zeeshan several times who had taken her photographs and uploaded her photographs without her consent and had assaulted her and when she told him that she was pregnant, he informed his mother i.e. the applicant herein that this child was not his and was someone else's and then his mother (applicant herein) called the prosecutrix to their house and gave some pills and told her that the matter should not reach anywhere and thereafter for about a month she suffered heavy bleeding, became weak and the sister of Zeeshan i.e. the co-accused Rida took her to a doctor and stated that there was an apprehension of ovarian cancer if there was no treatment and after some days, she underwent an abortion at the Stree Hospital, KKD and further claimed that Zeeshan used to keep threatening her and had also gone to her aunt's house and told her that he had married her and told her of the abortion and defamed her.



9. As per the said statement, the prosecutrix stated that she had not told her family about the same and she further stated that Zeeshan had made a fake ID of hers and had put her photograph there.

10. The proceedings of the date 18.05.2022 of the co-accused Rida Naaz Khan i.e. the daughter of the applicant herein before the Court of the learned ASJ-01 & Spl. Judge (POCSO)/ Shahdara/Delhi indicate that the Investigation Officer had *inter alia* stated to the effect:-

*“In reply to the present application on behalf of the SHO/investigating officer (IO) it has been stated that the present case FIR was registered on the basis of the complaint of the mother of the victim wherein she alleged that one boy namely Zeeshan raped her minor daughter and when she got pregnant, she was forced by accused Zeeshan and his family members (including mother, father and sister) to abort the pregnancy. She further alleged that for terminating the pregnancy accused Zeeshan, accused's sister Rida i.e., **the present applicant and accused's mother Salma gave her (victim) abortion pills and after consuming the pills, victim got some complication** so accused Zeeshan, his sister Rida (present applicant) along with her brother's friend Kundan took her to Stree Clinic, KKD institutional area there victim's dilation and curettage (D&C) was done and thereafter on the basis of aforesaid allegations, the present case was registered. It is further stated in the reply that after registration of the case, victim got medically examined at Dr. Hedgewar Hospital. Statement u/s 164 Cr.P.C. of victim got recorded wherein she supported her version of FIR.”*

11. It is apparent thus, as rightly contended on behalf of the applicant that the role of the applicant put forth by the Investigating Agency during the course of consideration of the bail application of



the co-accused named Rida Naaz Khan is stated to be on the same footing as that of the Rida Naaz Khan who is already on anticipatory bail and rather the allegations against Rida Naaz Khan relate even to the extent of getting the abortion done of the victim.

**12.** In the circumstances, as apparently there is no custodial interrogation of the applicant required, the applicant herein is allowed to be released on anticipatory bail in the event of arrest on filing a bail bond in the sum of Rs.1,00,000/- (Rupees One Lakh) with one surety of the like amount to the satisfaction of the learned Trial Court with directions to the applicant to the effect that:-

- she shall not leave the country without the permission of the learned Trial Court;
- she shall appear before the Investigating Agency as and when required;
- she shall keep her mobile phone on at all times;
- she shall drop a PIN on the google map to ensure that her location is available to the Investigation Officer of the case;
- she shall commit no offence whatsoever.
- she shall make no attempt to intimidate the prosecution witnesses.

**13.** The application is disposed of.

**ANU MALHOTRA, J.**

**JULY 28<sup>th</sup>, 2022/nc**