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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Order pronounced on 17.10.2022*

+ BAIL APPLN. 1999/2022
SHAHANA PARVEEN

..... Petitioner

Through: Mr. Mehmood Pracha, Mr.
Aayushman Agarwal, Mr. Azeem
Mehmood Alvi, Mr. Jatin Bhatt, Mr.
Sonawar Choudhary, Advocates.

versus

STATE

.....Respondent

Through: Mr. N.S. Bajwa, APP for State.
Insp. Praveen Kumar, PS
DIU/NE/Distt.

CORAM:

HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:

1. The petitioner has moved the present bail application in FIR No.292/2022 registered at PS Bhajanpura on 27.03.2022 under Section 388/342/427/323/170/120B/34 IPC.

2. The charge sheet was filed on 24.05.2022. The petitioner was arrested on 27.03.2022. Regular bail application was dismissed by the learned Metropolitan Magistrate and the Court of Sessions.

2.1 The bail application No.1418/2022 filed before this Court was dismissed as withdrawn on 20.05.2022. After filing of the charge sheet, lastly a bail application was dismissed by the learned Sessions Judge on 17.06.2022. The allegation against the present petitioner is that she tried to extort money from the complainant and his friends and she demanded Rs.2 lacs each as extortion money for releasing the complainant and his friends and threatened them to implicate them in false rape cases.

2.2 It is also the case of the prosecution that the petitioner is allegedly in regular practice with other co-accused persons, in extorting money from unsuspected boys and girls after giving them a room on hourly basis, and thereafter, threatening them to file false complaints against them. The petitioner has denied the said allegations. She claims to be a victim in the present FIR.

2.3 On 26.03.2022, when the petitioner went to her house, she caught the complainant along with his 3 other friends in compromising situation. On questioning, the complainant replied that the co-accused Momin had rented them the house on hourly basis to spend their leisure time on consideration of money. The petitioner told the complainant that she will complaint about the incident, the complainant tried to offer money to the petitioner to let them go but she refused.

2.4 The accused was beaten up by the complainant and his friends. The petitioner asked her sister to record the video of the complainant and his friends mercilessly beating her. On 27.03.2022, the petitioner went to the Police Station to lodge the complaint against the complainant and his friends and co-accused Momin, where she was arrested and falsely implicated in the present case. She was again mercilessly beaten by the police officials.

2.5 The learned Metropolitan Magistrate at the time of first remand had observed the injuries. All other Sections, except Section 170 IPC are bailable in nature, despite that the petitioner was remanded to judicial custody. After recording of the statement of the complainant under Section 161 Cr.P.C., Section 387 IPC was added, which is a non-bailable offence carrying imprisonment up to 7 years.

2.6 There are glaring contradictions/discrepancies in the statement of the

complainant recorded on different occasions. The case squarely falls within the ambit of the directions given by the Hon'ble Apex Court in '*Arnesh Kumar v. State of Bihar*, MANU/SC/0559/2014'. No notice or summons were ever issued to the petitioner. The arrest of the petitioner is illegal. The petitioner is a social worker. There is an ongoing dispute between the petitioner and her husband and that is the reason that he had given a statement against her.

2.7 On 20.03.2022, the petitioner had made a complaint vide GD No.095A against the co-accused Momin for being involved in illegal activities and not vacating the house of the petitioner.

2.8 Charge sheet stands filed, so the petitioner has approached the Court for regular bail on the grounds that she has been falsely implicated; impugned order dated 17.06.2022 is erroneous; there is no evidence against the applicant; none of the offences provide punishment beyond period of 7 years; the petitioner herself is the victim in the present case and she had gone to the Police Station to lodge a complaint on 27.03.2022 as well as she had earlier lodged a complaint against co-accused Momin and there are glaring defects and discrepancies in the statement of the complainant, hence, the petitioner has prayed for regular bail and she undertakes to comply with the conditions to be imposed by this Court.

3. Notice was issued. Nominal roll was called which shows that she is in continuous custody since 28.03.2022 except for an interim bail which was granted for two weeks vide order dated 06.08.2022 by the learned Metropolitan Magistrate.

4. Status Report has been filed in which it is mentioned that the complainant had hired a room on rent from the accused Momin to celebrate

the birthday of his female friend. The hire charges were paid in advance. When he tried to open the door of the room after half an hour, he realised that the same was locked from the outside. He called his friend Humza through mobile phone who reached there and Momin allowed Humza to enter that room and again locked the room from outside. After 10 minutes, two ladies opened the door and came inside the room who abused the complainant and his friends alleging that they were indulging in wrong acts and threatened them to hand over them to the police. They also assaulted the complainant and his friends.

4.1 Another person named Manoj reached there and introduced himself as the SHO and they demanded Rs.2 lacs each from the complainant and his friends and threatened to implicate them in a rape case. Certain persons assembled outside the property. Police also reached there and they apprehended Momin on the spot while other accused persons slipped off.

4.2 Investigation was carried out. Accused Momin and the present petitioner confessed to their involvement and they disclosed that they along with Shabiya and Manoj confined the complainant and his friends in the room and they threatened them and demanded Rs.2 lacs from each of them. After recording of the statement of the complainant, Section 388 IPC was replaced with Section 387 IPC.

4.3 The charge sheet stands filed against the present petitioner and against one co-accused. The petitioner is also involved in case FIR No.41/19 under Section 451/188/506/268 IPC. Co-accused Manoj is still absconding, hence, the bail has been opposed.

5. I have heard learned counsel for the petitioner as well as learned APP for the State, who have reiterated the contents of the bail application as well

as the Status Report. The petitioner is a woman who was arrested and sent to judicial custody on 28.03.2022 and she is in continuous custody, except for a short period of two weeks, when she was released on interim bail. The petitioner being a woman is also entitled to the concession given in Section 437(1) Proviso of Cr.P.C.

6. The trial will take a long time. Section 387 IPC is invoked on the basis of the statement of the complainant recorded under Section 164 Cr.P.C. The said Section prescribes punishment up to 7 years along with fine. It has been rightly argued on behalf of the petitioner that the judgement of the Hon'ble Supreme Court in the matter of '*Arnesh Kumar v. State of Blahr, MANU/SC/0559/2014*' is applicable to the facts of this case. This is not the stage to make observation regarding the merits of the case as it may prejudice the learned Trial Court in either way.

6.1 There is no conviction recorded against the present petitioner in the previous matter which, it appears is still in the trial stage, being FIR No.41/19 registered under Section 451/188/506/268 Indian Penal Code, P.S. Bhajanpura.

6.2 The petitioner was also bitten by a snake while in custody.

7. Keeping all these facts in view, I am inclined to grant regular bail to the petitioner subject to execution of personal bond of Rs.25,000/- with one surety of the like amount subject to the satisfaction of the concerned Court, subject to the following conditions:

- (i) She shall share her mobile number with the IO within three days of her release;
- (ii) She shall keep her mobile location on at all times;
- (iii) She shall not leave the jurisdiction of this Court without seeking

permission from this Court;

(iv) She shall appear before the learned Trial Court on each and every date when her matter is listed for hearing;

(v) She shall not indulge in the similar offence during the pendency of the trial.

(vi) She shall not try to influence or induce the witnesses in the present case.

8. The bail application is accordingly disposed of.

TALWANT SINGH, J

OCTOBER 17, 2022

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