



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Reserved on : 07.03.2022
Pronounced on : 05.04.2022

+ **BAIL APPLN. 3828/2021**

BAVNEET SINGH ALAGH Petitioner
Through: Mr. Apar Chaudhary, Adv.

versus

THE STATE NCT OF DELHI Respondent
Through: Mr. K.K.Ghei, APP for the State.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. This is a petition filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in FIR No. 538/2021 under Sections 354/506 IPC and Section 10 of the POCSO Act registered at Police Station Hari Nagar.

2. In brief the facts of the case are that on 23.09.2021, a complaint by prosecutrix "A" was marked to SI Krishan Kumar for further necessary action wherein prosecutrix stated that her aunt's boy Bavneet Singh Alagh (Petitioner herein) S/o Sh Ranjeet Singh Alagh R/o R-20, Maszid Road, Jangpura Bhogal, New Delhi, was harassing her for several months for having physical relationship. The prosecutrix alleged that the petitioner has sent threatening messages to the prosecutrix. On 21.03.2021, the petitioner was present at the house of the victim and the same day early in the morning

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around 6-7 a.m., when everyone was sleeping in the house, petitioner started touching the prosecutrix inappropriately and when she started making noise, the petitioner suppressed her mouth and assured her that he will not do anything in near future. The petitioner also threatened her that if she told anything to anyone then he would kidnap her. On the above said complaint, a case vide FIR No. 538/2021 dated 24.09.2021 under Sections 354/506 IPC and Section 10 of the POCSO Act was registered at Police Station Hari Nagar by SI Krishan Kumar and investigation of the case was taken up. On 25.09.2021, statement under Section 164 Cr.P.C. of prosecutrix got recorded in the court of Ms Karuna MM, Reliever (West), THC, Delhi, where she corroborated the version of FIR and supported her case.

3. A perusal of the previous order sheets would show that the petitioner was granted interim protection on 26.10.2021.

4. I have heard the learned counsel for the petitioner and the learned APP for the State and perused the status report filed by the state.

5. It is submitted by the learned counsel for the petitioner that the petitioner is a young boy of 20 years and has been falsely implicated in this case. It is further submitted that there is an unexplained and unjustified delay of six months, even if the alleged allegation of 21.03.2021 is taken to be true for the sake of argument. It is further submitted that the real story is that the mother of prosecutrix and petitioner are real sisters and that the mother of prosecutrix used to collect committee and the mother of petitioner took part in two committees of Rs. 2,00,000/- each. It is further submitted that in lieu of the same, the mother of prosecutrix took two security cheques from the



mother of petitioner and on refusal of mother of prosecutrix to return the said cheques, the mother of petitioner lodged a written complaint dated 05.08.2021 and this complaint became the bone of contention between both the parties and the present FIR was lodged. It is further submitted that on 21.03.2021 no such incident happened as alleged since Instagram chats clearly demonstrate that both the prosecutrix and petitioner continued chatting after 21.03.2021 and there is no whisper of any such event in their chats. It is further submitted that the said chats clearly indicate a healthy relationship between the two as brother and sister. It is further submitted that the petitioner had joined investigation and has also handed over one mobile phone of company- VIVO, colour-Black to the concerned authorities. Lastly, learned counsel for the petitioner submitted that the investigation is complete and chargesheet has been filed and thus, he may be granted anticipatory bail as custodial interrogation of the petitioner is not required.

6. Learned APP for the State has argued on the lines of the status report and submitted that the petitioner had joined the investigation and the chargesheet after the completion of investigation has been filed without arrest. It is further submitted that the petitioner had presented his mobile phone of company- VIVO, colour-Black and the mobile phone had been sent to FSL, Rohini, Delhi on 31.12.2021, the result of which is awaited. It is further submitted that the certified CDR is yet to be obtained and the same will be filed through supplementary chargesheet.

7. Keeping in view the fact that the petitioner has joined the investigation and the chargesheet has already been filed without arrest, the interim protection granted to the petitioner vide order dated 26.10.2021 is

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made absolute and it is directed that in the event of arrest, the petitioner be released on anticipatory bail subject to his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the concerned Arresting Officer/Investigating Officer/SHO of the concerned Police Station and also subject to the following further conditions:

- (i) The petitioner shall furnish his mobile number to the concerned Investigating Officer, which shall be kept operational at all times during the pendency of the trial.
- (ii) The petitioner shall not directly or indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
- (iii) The petitioner shall regularly appear before the Trial Court during the pendency of the trial. However, he shall join the investigation as and when required by the IO.
- (iv) In case of change of contact details/residential address, the petitioner shall promptly inform the same to the concerned Investigating Officer as well as to the Trial Court.

8. The bail application is disposed of in the aforesaid terms.

RAJNISH BHATNAGAR, J

APRIL 5, 2022/_{ak}