



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

Reserved on : 17.10.2023

Pronounced on : 11.12.2023

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+ **BAIL APPLN. 560/2023**

ROHIT DIXIT

..... Petitioner

Through: Mr. Rajeev Khanna and Mr. Sachin
Sharma, Advocates.

versus

STATE NCT OF DELHI & ORS.

.... Respondents

Through: Mr. Raghuinder Verma, APP for the
State with SI Anil Kumar, PS Pandav
Nagar.

Ms. Ashu Chaudhary and Mr. Akhil
Dhaka, Advs. for R-3/complainant.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present bail application has been filed by the petitioner under Section 439 Cr.P.C for grant of regular bail in case FIR No. 278/2021 U/s 376/328/506 IPC registered at Police Station Pandav Nagar.
2. Briefly stated, the present FIR was registered on the complaint of XXX who alleged that she knew the petitioner for the last one year as he tried to talk to her many times when she used to go to her computer class at Raghavpura.
3. The complainant further alleged that one day petitioner emotionally held her hand in his hands and asked her to marry him and she agreed to the

BAIL APPLN. 560/2023

Page 1 of 5



proposal. She further alleged that on 25.08.2020, she met the petitioner who took her to "Discovery Deluxe Hotel" at Laxmi Nagar and made physical relation with her on the pretext of marriage. Complainant further alleged that petitioner gave her something to drink and after drinking that she became unconscious for some time and petitioner made physical relation with her without her consent. She further alleged that petitioner made repeated physical relation with her for the next six months and when she asked him to marry her, he refused saying that she doesn't belong to his caste. After the registration of the FIR the investigation went underway and on 22.02.2022 the petitioner was arrested in the present case.

4. I have heard the Ld. counsel for the petitioner, Ld. APP for the State assisted by the Ld. counsel for the complainant, perused the Status Report and also perused the records of this case.

5. It is submitted by the Ld. counsel for the petitioner that the petitioner has been falsely implicated in the present case and the petitioner as well as the victim knew each other very well. It is further submitted that the victim is a well educated lady and at the time of the incident she was aged around 27 years. It is further submitted that the FIR has been registered after a delay of 4 months and 10 days. It is further submitted that the victim has even refused her medical examination.

6. It is further submitted that the testimony of the victim had been recorded in the trial court on 28.03.2023 and this is the first bail application moved by the petitioner after the recording of her statement. It is further submitted that the statement of the victim (PW-1) would clearly indicate that



it was a consensual relationship. It is further submitted by the Ld. counsel for the petitioner that the victim has admitted in her cross examination that she undressed herself and had done sexual explicit activities during their WhatsApp video calls which clearly shows that the victim was a consenting party.

7. It is further submitted by the Ld. counsel for the petitioner that the victim never informed her family members about her relationship with the petitioner and kept the relationship hidden as it was a consensual relationship and there was no promise of marriage.

8. It is further submitted by the Ld. counsel for the petitioner that the victim as per her own version visited the hotel along with the petitioner of her own free will on numerous occasions and never made complaint in this regard to anybody. It is further submitted that the testimony of the material witnesses have already been recorded and now there are no chances of tampering with the evidence. It is further submitted that the petitioner is in Judicial custody since 22.02.2022 and no purpose would be served by keeping him in judicial custody.

9. It is further submitted by the Ld. counsel for the petitioner that during the course of investigation IO of the case added section 313 IPC and in this regard the victim was re-examined and her statement U/s 161 Cr.P.C. was also recorded and the victim was asked to produce any document in regard to termination of her pregnancy by the petitioner but she could not produce any such evidence which clearly shows that the entire story put fourth by the victim is false and fabricated. It is further submitted that there is not even



an iota of evidence on record to suggest that the petitioner has administered any intoxicating substance to the victim in order to establish sexual relationship with her, rather the victim has will fully established sexual relations with the petitioner on various occasions and it is further contended that the victim is not a girl of immature understanding and on the date of incident she was aged around 27 years and she was well aware of the consequences of her act and she had entered into the relationship with the petitioner with open eyes.

10. On the other hand, Ld. APP for the State ably assisted by the Ld. counsel for the complainant has opposed the bail application and submitted that the petitioner had made physical relations with the victim on the pretext of marriage and thus committed rape upon the victim. It is further submitted that the petitioner at every point of time made false promise of marriage in order to establish physical relations with the victim and he finally refused to marry the victim on the ground that she belonged to a lower caste and that he would marry a girl of his mother's choice.

11. In the present case, the petitioner is in J.C. since 22.02.2022. The victim has already been examined. The allegations against the petitioner are also that he had given some stupefying substances to the victim which made her semiconscious and taking advantage of her condition, the petitioner made physical relations with her but nothing has come on record in this regard in the statement given by the victim or in the form of any scientific or medical evidence.

12. It has also been alleged against the petitioner that because of rape



having been committed upon the victim, she had to terminate her pregnancy but again there is no evidence corroborating this statement of the victim as she has not placed on record any medical documents from any hospital and she has not even given the details as to in which hospital she has shown herself for such condition.

13. The statement of the victim has already been recorded and this is not the stage to deeply analyze her statement. However, upon perusal of the statement of the victim atleast a case of bail is made out against the petitioner as it has come in the cross examination of the victim that she undressed herself and had done sexual explicit activities during WhatsApp video calls with the petitioner. There are other more instances but at this stage in depth analysis of those instances may prejudice the case of either of the parties. Therefore, looking into the facts and circumstances and also the fact that the testimony of the victim has already been recorded and the petitioner is in J.C. since 22.02.2022 and the trial will take a long time, so, no purpose would be served by keeping the petitioner in J.C. any further, the bail application is, therefore, allowed and the petitioner is admitted to bail on his furnishing a personal bond in the sum of Rs. 50,000/- with one surety of the like amount subject to the satisfaction of the Ld. Trial Court. The bail application is disposed of accordingly.

14. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

RAJNISH BHATNAGAR, J

DECEMBER 11, 2023

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BAIL APPLN. 560/2023

Page 5 of 5