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

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Reserved on: 10.10.2023
Pronounced on: 19.10.2023

+ **BAIL APPLN. 994/2019**

VINAY JAIKUMAR

..... Petitioner

Through: Mr. Manish, Adv.

versus

STATE

..... Respondent

Through: Mr. Manoj Pant, APP for State
 with SI Kajal Tyagi, PS
 Paharganj
 Mr. S. Sethi, Advocate for
 complainant
 Mr. Sunil, Adv.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The instant application under Section 438 of the Code of Criminal Procedure, 1973 has been filed on behalf of applicant seeking grant of anticipatory bail in case FIR bearing no. 70/2019, registered at Police Station Paharganj, Delhi for the offences punishable under Section 376 of Indian Penal Code, 1860 ('IPC').

2. Brief facts of the case are that on 12.03.2019, present FIR was registered on the complaint of one Ms 'I' whereby she had alleged that in June, 2013, after passing 12th standard, she had come to stay



in the house of her relative i.e. the accused herein for the purpose of finding a job, and the accused had got her admission in a sewing centre. It is alleged that one day in June, 2014, at about 12 PM, when the complainant was alone at home and was taking bath, the accused had entered the bathroom and had clicked some inappropriate nude pictures of her. Thereafter, he had started blackmailing her and after 10 days, he had made forcible physical relations with her against her consent. Thereafter, the accused had blackmailed her with nude photographs and had repeatedly made physical relations with her. It is also alleged that even after she had got married, the accused had kept on harassing. On these allegations, the FIR was registered on 12.03.2019. During investigation, the complainant was medically examined and her statement was recorded under Section 164 of Cr.P.C. During investigation, she had also produced a mobile call recording of accused wherein the accused had threatened to kill her husband and had also pressurized her to leave her husband.

3. Learned counsel for accused/applicant argues that the accused has been falsely implicated in this case and the FIR was registered after the considerable delay of more than three years. It is stated that chargesheet in this case has been filed without arrest of the accused since he was granted interim protection by this Court. Learned counsel for the applicant states that the victim had obtained a loan of Rs. 2,41,000/- from the accused on the pretext of getting customer service point and Jan Sewa Kendra (JSK) from Sahaj e-village Ltd. and had assured that the said amount will be repaid within 3 to 6 months. But after the expiry of said period, the victim had sought



time of about two years to repay the same. It is pointed out that on 15.07.2016, an undertaking/affidavit was executed between the parties wherein the victim had agreed to return the loan amount of Rs.2,41,000/- with interest @ 10 per cent quarterly. It is also stated that a civil case is pending between the parties regarding return of the said loan amount by the victim to the accused. It is argued that the father, husband and other relatives of the victim had been threatening and harassing the applicant. Therefore, it is prayed that interim protection granted to the applicant vide order dated 01.05.2019 be made absolute and present application be allowed since the applicant has been falsely implicated in the present case.

4. Learned APP for the State, on instructions from IO, submits that the testimony of the victim has already been recorded before the learned Trial Court. It is also argued that in view of allegations made in the present case, this bail application be rejected.

5. This Court has heard arguments addressed on behalf of both the parties and has gone through the case file.

6. In the present case, pursuant to grant of interim protection by this Court vide order dated 01.05.2019, the applicant had joined investigation and cooperated in the same by undergoing medical examinations and by giving his voice samples. However, the photographs allegedly taken by the applicant of the complainant could not be recovered. Chargesheet in this case was filed on 11.12.2019 against the accused under Sections 376/506/201 of IPC.

7. This Court has also been informed that the FSL report of the voice sample has been received and has per the report, the voice



sample of the accused/applicant matches with the recorded conversation whereby threats were extended to the complainant. However, such conversations and transcripts relate to the period prior to registration of present FIR and not after the grant of interim protection by this Court.

8. This Court notes that a civil litigation is also pending between the parties which relates to a loan transaction prior to filing of the present complaint by the victim, and a civil suit filed by the accused for recovery of loan amount is pending, and as per the accused, the victim had undertaken to return the loan amount a few days prior to the registration of present FIR.

9. The chargesheet in this case already stands filed. Moreover, no complaint has been produced before this Court regarding any threat being extended by the accused/applicant to the victim in the last three years. A report had also been called from the concerned Court regarding recording statement of the victim wherein it has been informed that adjournment was sought by the victim on 07.08.2023 when the Court was informed that she had to gone to her native village and was not available till 15.08.2023. However, during the course of arguments, learned APP for the State informed that the testimony of the victim has now been recorded before the learned Trial Court

10. Thus, considering the overall facts and circumstances of the case and the fact that the applicant had been granted interim protection vide order dated 01.05.2019 and he has not misused the liberty so granted to him, the interim protection granted to applicant



is confirmed subject to his furnishing a personal bond in the sum of Rs. 20,000/- with one surety of the like amount to the satisfaction of Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:

- i. The applicant shall remain available on mobile number which shall be shared by him with the Investigating Officer;
 - ii. The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner;
 - iii. The applicant shall regularly appear before the Trial Court;
 - iv. In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court.
10. Accordingly, the present bail application stands disposed of.
11. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.
12. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

OCTOBER 19, 2023/ns