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

+ **BAIL APPLN. 1969/2023 & CRL.M.A. 17916/2023**

**DHARMENDER**

..... Petitioner

Through: Mr.Jitender Solanki, Mr.vikkrant  
Sarwan, Mr.AbhishekGahlot and  
Mr.Sushil Ratan Yadav, Advts.

versus

**STATE NCT OF DELHI THROUGH SHO PS NORTH ROHINI**

..... Respondent

Through: Mr.Hemant Mehla, APP for the state  
with Mr.Dipanshu Meena, Advocate  
SI Sanju, PS North Rohini  
Complainant in person.

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*Date of Decision: 26.07.2023*

**CORAM:**

**HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

### **J U D G M E N T**

**DINESH KUMAR SHARMA, J. (Oral)**

1. The present application has been filed under Section 438 r/w 482 of Cr.P.C. for grant of anticipatory bail in case FIR No. 318/2023 for the offence under Section 376/354(A)/354(B) IPC & 8/13 POCSO Act registered at P.S. North Rohini.
2. Learned APP for the State has filed the detailed status report. Learned APP submits that as per the CDR examination, the petitioner did not visit Rohini on 04.03.2023, however he visited on 03.03.2023 between

*BAIL APPLN. 1969/2023*

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2.30 A.M. to 3.20 A.M. Learned APP also submits that on 04.03.2023, the alleged had made physical relations with complainant and sexually assaulted her daughter. Learned APP further submits that as per CDR analysis his location was not found in the area of Rohini.

3. Further, learned APP submits that however on 20.07.2023 while the victim had gone to the market, she was threatened by a masked person for which she immediately got a complaint lodged on 112 emergency number and thereafter police reached there. Learned APP has submitted that rather the victim attempted to commit suicide. Learned APP has submitted that the matter is under investigation. He submits that anticipatory bail may not be granted to the petitioner as the allegations are very serious in nature and thorough investigation is required. Learned APP has submitted that though the petitioner joined the investigation as and when called by the IO but he remained only evasive. Learned APP has submitted that the IO has served a notice on 22.07.2023 stating that the arrest is required for conducting fair and proper investigation.
4. Learned counsel for the petitioner submits that the petitioner has been implicated in the false and frivolous case. Learned counsel submits that the petitioner has joined the investigation as and when directed. It has further been submitted that even as per status report on 04.03.2023, the petitioner was not in the area of Rohini as per the CDR. Learned counsel submits that it is a case of false implication. He also submits



that similar complaints have been filed by the complainant in this Police station as well as other police stations.

5. In the present case, it is not in dispute that the petitioner was in the relationship with the complainant for the last many months. The allegations as made in the complaint are serious in nature. Even during the pendency of present application, there is an allegation of threatening or intimidating the witnesses.
6. It is a settled proposition that the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc.
7. In ***Sushila Aggarwal v. State (NCT of Delhi)***, (2020) 5 SCC 1, it was inter alia held as under

*92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.*

8. The allegations in the present case are extremely grave and serious in nature. The allegations of sexual exploitation are against mother and daughter. The court at this stage cannot go into the probative value of



statement of witnesses. The investigation is at infancy stage. In such case thorough investigation is required to reach at logical conclusion.

9. Having considered the submissions, the material on record and the law on the grant or refusal of anticipatory bail, I am of the view that the facts in the present case require thorough investigation. Considering the seriousness of the offences alleged, this not a fit case for grant of anticipatory bail.
10. Accordingly, the petition along with the pending application is dismissed.

**DINESH KUMAR SHARMA, J**

**JULY 26, 2023**

rb/ht