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

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Reserved on: 17.11.2023
Pronounced on: 01.12.2023

+ **BAIL APPLN. 2776/2023**

SOURAV @ SUNNY

..... Petitioner

Through: Mr. A.K. Tripathi, Advocate.

versus

THE STATE AND ANOTHER

..... Respondents

Through: Mr. Manoj Pant, APP for the
State with SI Ravi Beniwal, PS
Govind Puri.

Mr. Archit Upadhyay,
Advocate for prosecutrix.

Mr. Vishal Kumar, Advocate
for prosecutrix.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. This application has been filed under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') on behalf of the applicant seeking grant of regular bail in case FIR bearing no. 840/2022, registered at Police Station Govind Puri, Delhi, for the offence punishable under Sections 354D/195A/34 of the Indian Penal Code, 1860 ('IPC').

2. Briefly stated, background facts of the case are that a



complaint was lodged by the prosecutrix alleging therein that the applicant had made physical relations with her on multiple occasions on false pretext of marriage. However, he had refused to get married to her. Resultantly, FIR bearing no. 807/2022 for offences punishable under Sections 376/328/506 of IPC was registered at Police Station Govind Puri, Delhi. On 15.12.2022, the prosecutrix had lodged present FIR wherein she had alleged that on 10.07.2022, at 7.20 PM, when she was going towards her home on scooty, present accused/applicant, alongwith other co-accused person Anil had stopped her and threatened her of dire consequences if she fails to withdraw the previous FIR bearing no. 807/2022 lodged against him. The applicant had also snatched and thrown away the keys of the scooty of prosecutrix. Chargesheet was filed under Sections 354D/195A/34 of IPC against present applicant and co-accused Anil.

3. Learned counsel for the applicant/accused argues that applicant has been falsely implicated in present case. It is stated that present FIR has been filed with malafide intentions. It is also stated that no such incident has been captured in the CCTV footage. It is further stated that alleged offence has allegedly taken place on 10.07.2022 and that she had lodged present FIR on 15.12.2022 and there is an unexplained delay in filing of FIR. It is further stated that accused/applicant had been granted interim protection by this Court in the other case registered against him by the prosecutrix. It is, therefore, prayed that bail be granted to the accused/ applicant.

4. Learned APP for the State, while opposing the present bail application, argues that statements of the prosecutrix under Sections



161 and 164 of Cr.P.C. were recorded wherein she has supported the case of the prosecution. It is stated that there is a possibility that the applicant may extend further threats to prosecutrix and her family, and therefore, bail application be dismissed. It is also argued that the threats in this case were extended to withdraw the case filed by the complainant herein against the applicant under Section 376/328/506 of IPC.

5. Learned counsel for the prosecutrix, assisting learned APP for the State, has placed on record the conversations exchanged between the parties and the CDRs. It is stated that applicant had threatened the prosecutrix to withdraw the first FIR, which had led to registration of the present FIR. Learned counsel for the prosecutrix has also drawn this Court's attention to the complaints dated 11.11.2022 and 16.11.2022 lodged by accused/applicant with the police against prosecutrix for blackmailing him and threatening to implicate him in a false case. It is also stated that learned Trial Court had noted his conduct while dismissing his bail application and that he is also a habitual offender. It is further stated that granting him bail will affect the trial, and therefore, bail application be rejected.

6. This Court has heard arguments advanced by learned counsel for the applicant, learned APP for the State and learned counsel for prosecutrix. The material on record has also been perused.

7. In the present case, the allegations levelled against applicant, in a nutshell, are that he had established forcible physical relations with the prosecutrix on multiple occasions on false pretext of marriage in his rented accommodation and in various hotels.



8. The prosecutrix had thereafter lodged the present complaint which culminated into FIR bearing no. 840/2022 dated 15.12.2022 for offences punishable under Sections 354D/195A/34 of IPC wherein she had alleged that on 10.12.2022, accused/applicant herein had threatened her and her family of dire consequences if she will not withdraw the earlier FIR.

9. The prosecutrix and her mother, in their statements recorded under Section 161 and Section 164 of Cr.P.C. have stated that on 03.05.2023, when they were on their way to attend bail hearing of applicant in first FIR registered against him, he had threatened prosecutrix of dire consequences if she will depose against him, before the Court. A perusal of the record reveals that during investigation, the CDRs and mobile location charts of the phone number of the accused/applicant were obtained by the Investigating Officer, and the analysis of the said CDR reveals that the applicant was present in the Court. IO also states that the victim has informed her that she has been receiving obscene messages and calls from many unknown mobile numbers.

10. At this stage, material collected on record shows that the applicant herein has threatened the victim to not testify against him before the Trial Court. This Court also notes that applicant was granted interim protection in FIR no. 807/2022 *vide* an order passed by this Court on 09.12.2022, however, present FIR was lodged by prosecutrix against applicant, and thus, the applicant had misused the liberty of interim protection granted to him.

11. Considering the overall facts and circumstances of the case and



also considering the statements recorded under Sections 161 and 164 of Cr.P.C. of the prosecutrix and her mother wherein they have supported the prosecution's case and that the applicant had threatened the prosecutrix to withdraw the first complaint and also since the prosecutrix is yet to be examined before the learned Trial Court, this Court is of the opinion that no ground for grant of bail is made out at this stage.

12. Accordingly, present anticipatory bail application stands dismissed.

13. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

14. The order be uploaded on the website forthwith

SWARANA KANTA SHARMA, J

DECEMBER 1, 2023/kd