



\$~

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

%

Reserved on: 02.08.2023
Pronounced on: 26.09.2023

+ **BAIL APPLN. 3046/2022****VIKRAM KATHURIYA**

..... Petitioner

Through: Mr. Surya Narayan Singh,
 Senior Advocate with Mr.
 Raman Yadav, Mr. Hemant
 Kumar, Mr. Charanpreet Singh,
 Ms. Akriti Chaturvedi and Mr.
 Priyam Kaushik, Advocates

versus

THE STATE OF NCT OF DELHI & ANR Respondents

Through: Mr. Satish Kumar, APP for the
 State with S/V Vikram
 Kathuria, SI Bharti Dhondiyal,
 PS Anand Vihar
 Mr. Amit Chadha, Mr. Manoj
 Taneja, Ms. Smviti Srivastava,
 Advocates with complainant in
 person

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

1. The present application has been filed on behalf of the applicant for grant of anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') in connection with FIR



bearing number 411/2022 dated 20.08.2022 registered at Police Station Anand Vihar, Shahdara, Delhi under Sections 376/377/328/506 of the Indian Penal Code, 1860 ('IPC').

2. Briefly stated, the facts of the present case are that the present FIR was registered on the complaint of the complainant who had alleged that the present applicant Vikram Kathuria had established sexual relations with her on the false pretext of marriage. The complainant herself who had obtained a divorce from the Karkardooma Family Court, Delhi in 2016, had an intention to remarry and lead a new life. It was stated that she was introduced to Vikram Kathuria through a mutual friend named Charu, and upon meeting, Vikram had represented himself as a divorced man from a reputable family. The complainant had requested to see Vikram's divorce papers, which he first had claimed to have lost but had later shown. The complainant had explicitly told Vikram that her interest was in marrying him and she wished to refrain from engaging in sexual activity before marriage. Thereafter, on 10.04.2022, Vikram had picked complainant from her home and had allegedly offered her a drink laced with intoxicating substances, and had engaged in sexual activity against her will. When the complainant reported the incident to Rajendra Kathuria, Vikram's father, he promised to get her married to his son, but accused Vikram had subsequently threatened the complainant, warning her not to report the incident, and also took possession of her income tax return and chequebook. Thereafter, complainant had asked the accused again to marry her in a socially acceptable manner, after which, he had pressurised her to have a



private marriage performed at Arya Samaj Mandir, which felt a bit unusual and strange to the complainant. The marriage between the complainant and accused Vikram eventually took place at Arya Samaj Mandir in Connaught Place, New Delhi. The complainant had objected to the absence of Vikram's parents in the ceremony, to which he had responded that he wished to surprise them. It was also alleged by the complainant that accused had obtained her signatures on a blank paper by telling her that it was necessary for drafting an affidavit. After the marriage, Vikram had pressured the complainant to engage in sexual activity on 09.05.2022, at Leela Hotel, Karkardooma, Delhi. It was alleged that Vikram did not take complainant to his home as his wife but made various promises and excuses. Later, Vikram had revealed that his divorce proceedings had not been finalized, and he had a son from his previous marriage. The complainant had further discovered discrepancies in the marriage certificate, where Vikram had falsely declared himself as "unmarried." It was also alleged that on one of the occasions, Vikram had shown a flat at Anand Vihar, Delhi, to the complainant and had promised her that he wishes to keep his family and complainant at the said flat. Thereafter, accused had got a rent agreement drafted without including his name, but instead, the name of complainant's father, and had sent the list for furnishing the flat to the complainant and her sisters. It has also been alleged that when complainant had shared this with a mutual friend Charu Baliyan, she had told her that Vikram had a history of exploiting and deceiving women. On these allegations, the present FIR was registered.



3. Learned Senior Counsel for applicant argues that this is a case of consensual relationship where the applicant had already disclosed the factum of his marriage and he being blessed with a child, prior to the establishment of commencement of the relationship of the accused and the complainant. It is also argued that the petitioner had at no point of time concealed any fact from the complainant and the complainant had voluntarily entered in the relationship. It is also stated that the same is evident from the fact that the parties were married in a ceremony at Arya Samaj Temple. It is also stated that there is nothing to suggest or placed on record by the prosecution which will point out that at any point of time there was a false promise made by the applicant herein. It is also stated that the name of the son of the applicant is also tattooed on the arm of applicant which is visible and, therefore, and the complainant must have seen it as they were in a relationship, and even if the applicant would have desired, he could not have concealed his fact from the complainant. It has also been stated by the learned Senior Counsel that Memorandum of Understanding was entered into by the parties on 09.05.2022 regarding marriage as per Hindu rites and rituals was executed between the complainant and accused, where the applicant categorically had told that he is married and has a 11 years old son. It is therefore, prayed that the present bail application be allowed.

4. Learned APP for the State, duly assisted by learned counsel for respondent no. 2, on the other hand, states that there was no occasion for the complainant to have entered into this marriage. The factum of the marriage of the accused and the accused being blessed with a



child was concealed from the complainant from the inception of the relationship between the parties. It is also stated that there is electronic evidence available with the complainant which points out that this material fact was concealed from her and also that the marriage in this case had also taken place on the strength of concealment. It is also stated that there is affidavit sworn by the accused at the time of marriage where he mentions that he is unmarried. It is also pointed that this fact was not known to the complainant. Therefore, it is prayed that the present application be dismissed.

5. This Court has heard arguments addressed by learned counsel for the applicant, learned APP for the State, and learned counsel for the respondent no. 2, and has perused material on record.

6. The contentions raised by learned counsel for respondent no. 2 regarding the Memorandum of Understanding having not being signed after reading the contents, as the signature of the complainant were taken on blank papers, and the contention regarding the alleged conversation between the parties and their relatives are a matter of trial. It is also a matter of trial as to whether the complainant knew about the first marriage of the applicant subsisting at the time of her marriage with the accused.

7. This Court notes that the chargesheet in this case has already been filed. The Investigating Officer has not stated that she needs custodial interrogation of the accused. The mobile phone used by the accused has been handed over to the Investigating Officer as he had joined investigation, and the same has also been sent for FSL



examination.

8. Thus, considering the overall facts and circumstances of the case, the transcripts of conversations filed on record, statements of the witnesses etc., this Court is of the opinion that anticipatory bail be granted to the accused/applicant. In event of arrest, he shall be released on bail on furnishing personal bond in the sum of Rs.25,000/- with one surety of like amount to the satisfaction of the IO/SHO, subject to the following conditions:

- i. The applicant will not leave the country without permission of the learned Trial Court and will surrender the passport to the learned Trial Court within seven days.
 - ii. The applicant shall share his mobile number and address with the IO and the Trial Court and will inform them promptly about any changes in the same.
 - iii. The applicant will not threaten, visit, or try to contact the witnesses, the complainant, her relatives, etc. in any manner.
 - iv. The applicant will not use, circulate, or cause to be circulated any inappropriate photographs of the complainant in any manner.
 - v. In case, the applicant will violate any condition of this order, it will be a ground for cancellation of bail.
9. Accordingly, the present application stands disposed of.
10. It is, however, clarified that nothing expressed hereinabove



shall tantamount to an expression on merits of the case.

11. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

SEPTEMBER 26, 2023/dk