



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

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Reserved on : 25.07.2023

Pronounced on : 16.08.2023

+ **BAIL APPLN. 3663/2022 & CRL.M.A.25698/2022**

ANKIT PRADHAN @ ANKIT SINGH

..... Petitioner

Through: Mr. Rajesh Ranjan, Mr. Vipul Kumar
Agrawal and Mr. Mayank Singhal,
Advocates.

versus

STATE NCT OF DELHI AND ANR.

.... Respondents

Through: Ms. Priyanka Dalal, APP for the State
with SI Meenakshi, P.S. Wazirabad.
Mr. Naresh Singh Rana, Advocate for
R-2 (through VC).

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

CRL.M.A. 25698/2022 (Condonation of delay in re-filing.)

For the reasons stated in the application, delay of 19 days in re-filing the petition is condoned. The application stands disposed of.

BAIL APPLN. 3663/2022

1. The present bail application has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No. 787/2022 under Section 376 IPC registered at Police Station Wazirabad.

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2. In brief, the facts of the case are that on 04.10.2022, the victim aged around 22 years reported in the police Station Wazirabad that she was sexually assaulted by the petitioner on the pretext of marriage and her statement was recorded in which she alleged that on 12.07.2021, petitioner called her on her phone and thereafter they both started talking with each other. The victim further alleged that on 13.07.2021, petitioner called her at his residence at Wazirabad, where she reached at the given address and she further alleged that there were two rooms in the flat. In one room friend of the petitioner was present and in the other room petitioner was present. She alleged that the petitioner promised to marry her and asked her to make physical relations with him, which were made 3-4 times on the pretext of marriage.

3. I have heard the Ld. counsel for the petitioner, Ld. APP for the State assisted by the Ld. counsel for complainant (respondent No. 2), perused the Status Report and also perused the records of this case.

4. It is submitted by the Ld. counsel for the petitioner that the petitioner has been falsely implicated in the present case. It is further submitted by him that the sister of the victim made a call at PS Timar Pur on 22.09.2022 and DD No. 44 A was recorded wherein it was alleged that one boy has taken the victim after making promise to marry but she is lying unconscious at Rishikesh. It is further submitted that the relationship of the victim with the petitioner was consensual in nature. It is further submitted that on 23.09.2022 the family members of the victim called the police by dialing 112 and on that basis DD No.



28 A and 59 A were recorded at PS Timar Pur. It is further submitted that at PS Timar Pur, DCW counselor had met the victim where she stated that her mother pressurized her to call at number 100 and due to such pressure she had left her house thrice. It is further submitted by the Ld. counsel for the petitioner that the statement of the victim in this respect was recorded and videographed. It is further submitted that the petitioner had joined the investigation as and when called by the IO.

5. It is further submitted by the Ld. counsel for the petitioner that the victim is a grown up girl and all throughout she had been a consenting party. It is further submitted that an earlier complaint with the same allegations was registered at police station Timarpur but the victim had exonerated the petitioner of all the charges, therefore, no FIR was registered at PS Timarpur. It is further submitted that thereafter family members of the victim hatched a conspiracy and the present FIR was registered at police station Wazirabad and the registration of the FIR at police station Wazirabad is illegal as per the mandate of the judgment of Hon'ble Supreme Court in "*T.T. Antony Vs. State of Kerala and Ors, Criminal Appeal No. 689/2001*". It is further submitted that the victim is in the habit of making such complaints and earlier also she had levelled similar allegations against other persons and matter was withdrawn as settled. It is further submitted that the petitioner has clean past antecedents.

6. On the other hand, Ld. APP for the state has submitted that the allegations against the petitioner are grave and serious in nature. She



further submitted that NBWs have been issued against the petitioner and P.O. proceedings have already been initiated against him. She has also argued on the lines of the Status Report.

7. In the instant case, the FIR was registered on 04.10.2022. However, as per the Status Report, statement of victim U/s 164 Cr.P.C. was recorded on 05.10.2022. The Status Report reveals that three PCR calls were made. First was made by the younger sister of the victim vide DD No. 44 dated 22.09.2022 at PS Timarpur. Second PCR call was made by the victim's younger sister vide DD No. 28 on 23.09.2022 again at PS Timarpur and other PCR call was made by the victim vide DD No. 59 on 23.09.2022 which was received at PS Timarpur.

8. As per the Status Report, all the PCR calls were entrusted to SI Manju PS Timarpur for necessary action and an enquiry of the above calls was conducted by said SI. The Status Report reveals that the victim was examined. Victim did not give statement in support of the allegations of the present FIR, hence no legal step was taken by SI Manju and the victim also disclosed that she was living with the petitioner in a live in relationship and these facts were mentioned in DD No. 81 A dated 23.09.2022 by SI Manju.

9. Status report further reveals that the victim was examined and she stated that under the pressure of her family members, she had not given any statement against the petitioner but on 10.10.2022, during hearing of the anticipatory bail application of the petitioner, she



opposed the bail application by stating that she was under pressure from the petitioner and that she was raped by the petitioner several times on the pretext of marriage.

10. It was the contention of the Ld. APP that NBWs have been issued against the petitioner but the same cannot be the sole ground for rejection of the present bail application, looking into the facts and circumstances of this case. In the present case, the victim has been examined but as per the prosecution, she has not given any statement in support of the allegations of the present FIR, so no legal steps were taken by the IO and as per the Status Report, the victim had also disclosed that she was living with the petitioner in a live in relationship and these facts were mentioned in DD No. 81 A dated 23.09.2022 recorded at PS Timarpur. But victim again changed her statement during the further course of investigation and stated that she had made the statement under the pressure of the accused/petitioner but it is evident that no complaint has been lodged in this regard. As per the status report, the petitioner and the victim had been talking to each other on telephone.

11. As far as the question of issuance of NBW against the petitioner is concerned, the petitioner has not been declared a proclaimed offender. In this regard, reliance can be placed upon the judgment passed by the High Court of Himachal Pradesh, Shimla in the case titled as *"Mahender Kumar Vs. State of Himachal Pradesh, Cr. MP(M) No. 1682 of 2020 decided on 26.10.2020"*. As far as the



statements of the victim are concerned, she has not been consistent and the effect of the same will be seen when she will appear in the witness box. Nothing is to be recovered from the petitioner. In these circumstances, the present application is allowed and it is ordered that in the event of arrest, the petitioner be released on bail on his furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the IO/arresting officer/SHO concerned on the following terms and conditions:

- (i) The petitioner shall join the investigation as and when required by the IO/SHO.
- (ii) The petitioner shall not influence the victim or any of the witnesses of the prosecution.
- (iii) The petitioner shall not leave the country without the permission of the Ld. Trial Court.

12. The bail application stands disposed of.

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

RAJNISH BHATNAGAR, J

AUGUST 16, 2023

Sumant