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

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*Reserved on: 21.12.2023
Pronounced on: 22.12.2023*

+ **BAIL APPLN. 4313/2023 & CRL.M.A. 35280/2023**

RITURAJ KUMAR

..... Petitioner

Through: Mr. Mukesh Kumar, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Kiran Bairwa, APP for the
State.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant bail application under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C') has been filed by the applicant, seeking grant of anticipatory bail in relation to FIR No. 1296/2023, dated 18.11.2023, registered at Police Station Burari Police Station, for offences punishable under Sections 376(2)(n)/354(B)/323/342/506 of the Indian Penal Code, 1860 ('IPC').

2. Briefly stated, facts of the present case are that the present FIR was registered on the complaint of the complainant, who had stated that in February 2020, she had participated in a debate competition in college 'X' where she had met the accused Rituraj, who was pursuing his degree at College 'Y', and had repeatedly tried to engage in a



conversation with the complainant. Thereafter, the accused had sent several messages to the victim on her *Instagram* account, after which accused and complainant had started communicating through *Whatsapp* and *Instagram*, and they had become friends. On 12.08.2022, accused had invited her for dinner. The complainant had accepted the invitation for dinner. After dinner, the accused had asked the complainant to stay back with him. She had accepted the offer as both of them were good friends. Thereafter, at about 02:30 AM, the accused had entered the room of the complainant, and had tried to get intimate with her. As alleged, the accused had started kissing her body parts without her consent, and had forcibly established physical relations with her. The complainant had also alleged that the accused had recorded inappropriate videos and photographs of the complainant, and had threatened her that he will publish the inappropriate videos and photographs of the complainant on social media platforms in case, the complainant will disclose anything to anyone. After this incident, the complainant had suffered mental health issues due to this trauma and had even developed suicidal tendency. Thereafter, the accused had tried to contact the complainant on 30.08.2022, and had insisted that he will delete the photographs and videos of the complainant if she would visit him in his house. However, instead, the accused had visited her home and had again forcibly established physical relations with her without her consent. Again on 04.09.2022, the accused had forced the complainant, on the pretext of deleting the photographs, to visit his place, and had forcefully established physical relations with her. It



was also alleged by the complainant that these events had led to the deterioration of her mental health, due to which she had also consulted doctors at AIIMS, Delhi between October 2022 and January 2023.

3. Learned counsel for the applicant argues that the applicant is a highly qualified student and has been falsely implicated in the present case. It is argued that the applicant is having a reasonable apprehension of his arrest in connection with the instant FIR, and the learned Sessions Court had *vide* its order and judgment dated 02.12.2023, rejected his bail application, in a mechanical manner without dealing with the facts of the present case. It is argued that the accused and the complainant had known each other since 2018, as they used to participate in debating competitions together, and both of them used to meet regularly. It is argued that the complainant was in a consensual relationship with the accused/applicant, and now she is alleging sexual assault to falsely implicate him in the present case. Learned counsel draws the attention of this Court to many social media posts in support of his argument that the complainant is trying to malign the present applicant for some ulterior motive and that the relationship between them is consensual in nature. It is argued that the complainant had also sent some text messages on 03.11.2023, threatening the applicant. It is further argued that the complainant had posted the entire alleged concocted incident on *Instagram*, and had rather also called for a poll on *Instagram*, as to whether the applicant/accused should be sent to jail, or he should be granted bail. It is argued that the accused being highly qualified, and a responsible



citizen of India is not guilty of sexual assault, and therefore he be granted bail.

4. *Per contra*, learned APP appearing on behalf of the State submits that the allegations against the present accused are serious in nature and also draws the attention of this Court to the fact that the complainant had suffered acute depression and was under constant treatment of All India Institute of Medical Sciences (AIIMS) due to this incident of sexual assault. It is also argued that inappropriate photographs and videos which were prepared by the accused, pertaining to the complainant are also in his possession, and she is under constant fear and apprehension regarding the same, which have to be recovered from the accused. It is stated that the accused has not joined investigation and non-bailable warrants already stand issued against him by the learned Trial Court. Thus, the present anticipatory bail application be dismissed.

5. This Court has heard arguments addressed by learned counsel for the applicant and learned APP for the State and has perused material on record.

6. Allegations against the present applicant/accused, in a nutshell, are that he had forcibly established physical relations with the complainant on various occasions and had recorded inappropriate videos and photographs of the complainant. It has been alleged by the complainant that the applicant/accused had then used these videos and photographs of the complainant to threaten her, and on the pretext of these videos and photographs, he had forcibly established physical relations with her. The *Instagram* posts which have been



brought to the notice of this Court, rather also reflect that the victim/complainant has written about the incident which had taken place with her. The appropriateness of the *Instagram* posts and her conduct cannot be gone into by this Court, rather it will be inappropriate for this Court to comment on the same, at this stage. The contention of learned counsel for the accused/applicant that the relationship between the complainant and the accused was consensual is not ascertainable from any *Instagram* post on which he relies upon.

7. Learned counsel also relies upon an apology asked for by the complainant to his mother, from the applicant/accused, and the apology tendered accordingly by the accused. It has been stated by the learned counsel for the applicant that the apology was extracted from the applicant under threat of being implicated in a case while sitting in a police station and therefore, should not be held against him. In this regard, this Court is of the opinion that asking for apology and tendering of the same between the parties has no bearing at this stage while dealing with the application for grant of anticipatory bail, since these issues are essentially issues of trial, which have to be decided after conclusion of investigation.

8. This Court has also perused the medical records, shown by the investigating officer, relating to treatment for depression undergone by the complainant as well as the statement of the complainant recorded, for the purpose of dealing with present bail application. While considering the same, this Court notes that there are specific allegations of forced sexual assault of aggravated nature. The accused has not joined the investigation, and as per order of the learned Trial



Court, despite sufficient efforts and attempts made by the Investigating Officer, the accused is not traceable. There are also specific allegations regarding the accused being in possession of inappropriate photographs and videos pertaining to the complainant which need to be recovered. This Court also notes that non-bailable warrants have already been issued against the accused.

9. In such facts and circumstances, this Court is not inclined to exercise its jurisdiction for grant of anticipatory bail to the present accused/applicant. Accordingly, the present bail application is dismissed, with all the pending applications.

10. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

DECEMBER 22, 2023/at