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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 626/2024

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..... Petitioner

Through: Mr. Yusuf Khan, Mr. Amit
Arora & Mr. Jatin Sharma,
Advocates

versus

STATE NCT OF DELHI & ANR. Respondent

Through: Mr. Hitesh Vali, APP for
the State with SI Meeta,
PS Model Town.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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25.01.2024

CRL.M.A. 2614/2024 (*exemption from filing original/certified
and clean/typed/dim copies of the annexures/documents*) &
CRL.M.A. 2615/2024 (*permission to file list of dates and
synopsis*)

1. Exemptions allowed, subject to all just exceptions.
2. The applications stand disposed of.

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3. The present petition is filed under Section 439(2) read with Section 482 of the Code of Criminal Procedure, 1973, seeking setting aside of the order dated 08.11.2023 (hereafter '**impugned order**'), passed by learned Special Judge (NDPS), granting anticipatory bail to the accused in FIR No. 292/2023, under Sections 377/354A/498A/406/34 of the Indian Penal Code, 1860, registered at Police Station Model Town.
4. The learned counsel for the petitioner / complainant



submits that erroneous findings have been recorded by the learned Trial Court which led to the passing of the impugned order. He submits that the learned Trial Court recorded that the genuineness of the photographs of the complainant with another person has not been denied, whereas, the complainant had categorically denied the veracity of the said photographs.

5. He further submits that the learned Trial Court recorded that *stridhan* was handed over to the complainant, whereas, no such attempt was made by the accused / Respondent No. 2 and the *stridhan* was never offered to the complainant. He further submits that even though the learned Trial Court recorded that the accused was not in possession of his mobile phone but the same is incorrect, since the contents of the mobile phone were being used by the Respondent No. 2, in other proceedings. He further submits that it is erroneously recorded by the Trial Court that the petition for the custody of the kids has already been filed by Respondent No. 2, even though the petitioner and Respondent No. 2 had no child out of the wedlock.

6. The learned Additional Public Prosecutor for the State, on instructions, submits that Respondent No. 2 has always been cooperative and his custody is not required at this stage. He also submits that the investigation is at a fag end and the chargesheet will be filed shortly.

7. In view of the arguments as noted above, it appears that certain observations have been made by the learned Trial Court erroneously. However, considering the fact that the present order was passed more than two months back on 08.11.2023 and there is no allegation against Respondent No. 2, post the said order, that the liberty has been misused and considering the fact that the State does not require custodial interrogation of the accused, this



Court does not consider it necessary to set aside the impugned order or interfere with the order passed by the learned Trial Court.

8. The petition is dismissed.

9. It is, however, made clear that any observation made by the learned Special Judge as discussed above will not be relied upon in other proceedings between the parties and will not affect the trial in any manner whatsoever.

AMIT MAHAJAN, J

JANUARY 25, 2024

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