



\$~9

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

+ **BAIL APPLN. 448/2023**

HIMANSHU

..... Petitioner

Through: **Mr.D.K. Pandey, Adv.**

versus

STATE (NCT OF DELHI) AND ANR.

..... Respondents

Through: **Mr. Ritesh Kumar Bahri, APP for
State with SI Rashmi Police Station
Uttam Nagar**

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

29.01.2024

%

1. The present application has been filed seeking regular bail in connection with FIR No. 42/2023 under Section 376 IPC dated 18.01.2023 registered at Police Station Uttam Nagar.
2. The learned APP for the State on instructions from the IO, who is present in Court, submits that the chargesheet has also been filed. He, however, adds that the allegation are that the petitioner had repeatedly established physical relations with the petitioner over a period of 06 years and certain amount of money was also transferred by the prosecutrix to the petitioner.
3. The learned counsel for the petitioner submits that the petitioner and the prosecutrix are husband-wife as marriage was solemnized between them.



He submits that subsequently the prosecutrix has married some other person without dissolution of marriage solemnized with the petitioner. In support of his contention he places reliance on the photographs which has been annexed as Annexure B (colly) to the petition, as well as, to the legal notice dated 20.09.2022 issued to the petitioner on behalf of the prosecutrix. A copy of the notice has been handed over in Court, the same is taken on record.

4. It has been asserted in the legal notice that the prosecutrix got married to the petitioner in the year 2020 in a low key affair. It is also mentioned that one child namely, Atharva was born out of the said wedlock on 16.09.2021.

5. A perusal of the photographs which have been placed on record also shows the prosecutrix in an attire of a married woman alongwith the petitioner and their child.

6. It is not in dispute that the petitioner was granted interim bail *vide* order dated 01.03.2023 which was continued thereafter from time to time but the petitioner did not misuse the liberty granted to him. Thus, the petitioner does not appear to be flight risk.

7. It is also not the case of the prosecution in the status report that the petitioner has a criminal record or that he will influence the prosecutrix in case he is enlarged on bail.

8. On a query put by the Court, learned APP on instructions from the IO, who is present in Court, fairly states that the alleged objectionable photographs which are part of the chargesheet are the print outs of the screen shots but no mobile phone was seized from the petitioner.

9. Having regard to the aforesaid facts and circumstances, this Court is of the view that the petitioner has made out a case for grant of regular bail.



Accordingly, the petitioner is admitted to bail subject to his furnishing a Personal Bond in the sum of Rs. 20,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/CMM/Duty Magistrate, further subject to the following conditions:

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
 - b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
 - c) Petitioner shall not temper with the evidence and shall not communicate with or come in contact with the prosecutrix.
10. The petition stands disposed of.
 11. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance.
 12. Order *dasti* under signatures of the Court Master.
 13. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

JANUARY 29, 2024
N.S. ASWAL