



2024:DHC:167



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

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Reserved on : 20.12.2023

Pronounced on : 10.01.2024

+ **BAIL APPLN. 480/2023**

MOHIT

..... Petitioner

Through: Mr. Ranbir Singh Kundu, Mr. Ashish Pandey, Mr. Mukesh Kumar, Mr. Shubham Saxena and Mr. Srikant Singh, Advocates.

versus

GOVERNMENT OF NCT DELHI

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State with SI Garima, P.S. Adarsh Nagar and SI Manisha, P.S. Mukherjee Nagar.
Mr. Satya Bhushan and Mr. Sonu Agarwal, Advocates for the complainant with complainant in person.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

JUDGMENT

RAJNISH BHATNAGAR, J.

1. The present petition has been filed by the petitioner under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No. 194/2023 under Sections 376/506 Indian Penal Code, 1860 registered at Police Station Mukherji Nagar.

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2. I have heard the learned counsel for the petitioner, learned APP for the State duly assisted by learned counsel for the complainant, perused the status report and also perused the records of the case.

3. Learned counsel for the petitioner submitted that the alleged incident took place long back in the year 2016 and the present FIR is nothing but an afterthought. He further submitted that the relationship between the petitioner and the victim was consensual and the present FIR is a counterblast against the complaint made by the sister of the petitioner against the brother of the victim. He further submitted that the petitioner has joined the investigation and he is not required for any investigation purposes. He further submitted that the petitioner and the victim met on Facebook and as per the FIR which was registered on 02.02.2023, the last allegation of physical relationship against the petitioner is of February 2021, therefore, it is argued that there is a delay in registration of the present FIR. He further submitted that victim in Whatsapp chats with the sister of petitioner on 15.07.2022 has confirmed that she has got married and has also sent her marriage card to show that her marriage had taken place on 14.04.2022. He further submitted that the victim even sent her photograph in which she is dressed as a bride with 'Chooda' in her hands.

4. On the other hand, learned APP for the State duly assisted by learned counsel for the complainant argued on the lines of the status report and vehemently opposed the grant of bail to the petitioner stating that the allegations against the petitioner are grave and serious



in nature. He further submitted that the victim even got pregnant because of the relationship between the petitioner and the victim and her pregnancy was aborted in Hans Cheritable Hospital. It is further submitted that Sections 313/506 IPC have also been invoked against the petitioner. He further submitted that the chargesheet has now been filed. He further submitted that investigation was carried out in regard to the marriage of the victim but no evidence was found about the marriage of the victim.

5. In the present case, the petitioner as per the case of the victim, she became friend with the petitioner in the year 2016 and in the month of May, 2016, according to the victim, she was raped and as stated by the victim in her statement recorded under Section 164 Cr.P.C., the petitioner on the pretext of marriage raped her many times. As per the prosecution, the victim even got pregnant and subsequently, the pregnancy was aborted and she was treated for the side effects in Hans Cheritable Hospital.

6. In the instant case, as per the victim, the petitioner and the victim came into contact in March 2016 and according to the victim, since then petitioner was having sex with her on the ground of promise of marriage which according to the victim did not fructify, so the present FIR was got registered against the petitioner by the victim on 02.02.2023.

7. The FIR in the present case was got registered in the year 2023. According to the victim, she was firstly raped by the petitioner in the



month of May, 2016 and as per the FIR the last physical relationship between the petitioner and the victim took place in the month of February 2021, in my opinion, looking into the facts and circumstances of this case, this period of more than 4 years was enough for a prudent person to realize as to whether the promise of marriage is false from its very inception.

8. In the case in hand, the victim and the petitioner even went to the hospital for the after effects of the abortion which according to the victim was done forcefully but nothing has been placed on record to show that the abortion was done forcefully. However, it is a matter of record that the victim got aborted. The petitioner also relied upon certain Whatsapp chats of the victim wherein the victim has talked about her marriage with another person and also sent her marriage card and her photographs of marriage in marriage attire, though according to the prosecution, no evidence in this regard could be found but however, it still remains a matter of evidence to be looked during the course of trial.

9. As far as allegations made by the victim against the petitioner are concerned, those can be proved by the victim by entering into the witness box and for that purpose, custodial interrogation of the petitioner is not required. Moreover, there is nothing on record to show that the petitioner has not co-operated in the investigation.

10. Keeping in view entire circumstances of this case and the fact that chargesheet has already been filed, the present bail application is



allowed and it is ordered that in the event of arrest petitioner be released on anticipatory bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the Investigating Officer/SHO concerned. However, the petitioner shall join the investigation as and when required by the Investigating Officer.

11. In view of the above, the bail application stands disposed of.

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

RAJNISH BHATNAGAR, J

JANUARY 10, 2024

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