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

+ **BAIL APPLN. 560/2024**

NAVEEN GAHLAWAT

..... Petitioner

Through: Mr. Mohit Mathur, Sr. Advocate with
Mr. Sandeep Sharma, Mr. Nishant
Solanki and Ms. Dipika, Advocates

versus

THE STATE NCT OF DELHI

..... Respondent

Through: Mr. Satish Kumar, APP for the State
with W/SI Menka, P.S. Chhawla.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

02.04.2024

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1. The instant application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the petitioner seeking regular bail in case arising out of FIR bearing No.551/2023, registered at Police Station Chhawla, Delhi for the offences punishable under Sections 323/376/506/34/109 of Indian Penal Code, 1860 ('IPC').

2. Brief facts of the present case are that the complainant had approached the police station with a handwritten complaint regarding sexual assault by the present accused/applicant i.e., Naveen and thereafter the present FIR was registered. The complainant had alleged that she was married to the co-accused person i.e., Manish for the last 10 years and had a four-year-old son out of the said wedlock. It is alleged in the complaint that her husband Manish used to force her to consume liquor and had also been



forcing her to sleep with his friends. It is alleged that on 10.12.2023, the co-accused i.e., Manish had started fighting with the complainant and had also beaten her and as a result had taken the child somewhere with him. However, it is alleged that the complainant wanted to resolve the issue and for the same, she had gone to his parental house but did not find Manish there also. It is alleged that when she was coming back to her house, she had received a phone call from Manish that he was coming home to resolve the dispute and he had brought along with him his friend i.e. the present applicant/accused Naveen. Thereafter, both of them had started consuming alcohol and had also insisted her to consume it. When she had refused, Manish had started fighting with her and she was forced to have alcohol with both the accused persons and after having alcohol, she became unconscious. It is further alleged that thereafter, she was asked to sleep in her room and when she got up, she had found the present applicant/accused lying on top of her. She had immediately called Manish i.e., her husband for help and had tried to push the present applicant/accused away. She had somehow managed to find refuge in the room where Manish usually sat, but he had already departed from the house. It is further alleged that the present applicant/accused had informed her that Manish had allegedly given him permission to do anything to her and had taken their son with him. Subsequently, the present applicant/accused had also fled from the scene. Pursuant to the said complaint the FIR was lodged. During investigation, the present applicant/accused i.e., Naveen was apprehended, and a chargesheet was filed.

3. Mr Mohit Mathur, Learned Senior Counsel appearing on behalf of the the applicant argued that the prosecutrix had met police officials on the



intervening night of 10.12.2023 and 11.12.2023 at about 12:49 AM and the same has been registered as GD No. 0008A, P.S. Chhawla, Delhi wherein she had only informed that her husband had taken her son along with him and the said GD entry was withdrawn by her later as settled. The prosecutrix had not alleged any incident of rape on 10.12.2023. It is argued that no such incident was revealed to the police till 15.12.2023. It is further submitted that the present applicant/accused was arrested on 15.12.2023 itself and is in judicial custody since then. It is also argued that the co-accused who is the husband of the prosecutrix herein has himself levelled allegations of the complainant damaging the house after consuming liquor and he had left the house for his safety and for the well-being of his minor son. It is further submitted that the husband of the applicant/accused has already been enlarged on bail. Therefore, in view of the arguments addressed it is prayed that the present applicant/accused be enlarged on regular bail.

4. Learned APP for the State, on the other hand, argues that the allegations against the present applicant/accused are serious in nature. It is also argued that the allegations against the husband of the prosecutrix were not under Section 376 of IPC. Therefore, the present bail application be rejected.

5. This Court has heard arguments addressed by learned counsel for the applicant as well as learned APP for the State and has gone through the statement of the prosecutrix recorded under Section 164 of Cr.P.C, the MLC filed on record as well as General Diary No. 0008A.

6. This Court notes that it is not disputed that the GD No. 0008A was settled and withdrawn by the complainant. This Court also notes that the allegations against the present accused/applicant are that he had committed



sexual assault on the complainant when she was under the influence of liquor which was forcefully administered to her by her husband co-accused, who had forced her to have sexual intercourse with the present accused/applicant. In her statement, she had stated that she was intoxicated after consuming liquor she was unconscious and when she had regained consciousness, she had found that the present applicant/accused had committed sexual assault upon her. The complaint in this case was filed on 15.12.2023. The incident in question had allegedly taken place on 10.12.2023. The GD Entry which was allegedly lodged at midnight of 10.12.2023 by the complainant does not mention any allegation as levelled on 15.12.2023 in the FIR. The co-accused i.e. her husband was granted anticipatory bail and the allegations against him are of administering liquor to her forcibly and forcing her to have sexual intercourse with his friend i.e., the present applicant/accused. The present accused/applicant has been in judicial custody since 15.12.2023 and the Trial will take some time to conclude.

7. In view thereof, the present accused is entitled to regular bail on his furnishing personal bond in the sum of Rs.10,000/- with surety of the like amount to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:

- i) The applicant shall not leave the country without prior permission of the concerned IO/SHO.
- ii) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.
- iii) In case of change of residential address/contact details, the



applicant shall promptly inform the same to the concerned Court.

8. The bail application stands disposed of.
9. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

APRIL 2, 2024/zp

[Click here to check corrigendum, if any](#)