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

+ **BAIL APPLN. 635/2024**

ABHISHEK KUMAR

..... Petitioner

Through: Mr. D.V. Khatri and Mr. Jitesh
Saluja, Advocates.

versus

STATE NCT OF DELHI & ANR

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Seema PS Dwarka South,
New Delhi.

Mr. Atul Kharbanda, Advocate for
respondent No.2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

15.04.2024

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1. The present application has been filed under Section 438 Cr.PC. seeking anticipatory bail in FIR No. 0063/2024 registered under Section 376 IPC at P.S. Dwarka South, New Delhi.

2. Learned counsel for the petitioner/applicant submits that the prosecutrix at the time of lodging of the FIR was aged around 29 years and had entered into consensual physical relations with the applicant. He further states that both the prosecutrix and the applicant were known to each other through their friends and that the prosecutrix was inclined to get married to the applicant. It is further contended that as per complainant, the applicant had taken her to a hotel at Dwarka, Sector-22 on 13.08.2022, on which day he made her consume cold drink laced with alcohol. Though the petitioner tried to establish physical relations, the prosecutrix resisted. The forcible physical relations were allegedly established for the first time on 27.11.2023



when the petitioner took the prosecutrix to Hotel Flagshipment. Physical relations were again established on 30.11.2023 in Hotel Dwarka Inn whereafter the present FIR came to be registered on 30.01.2024. He submits that the applicant has handed over a pen drive containing audio transcript of the conversations which belie the allegations in the FIR as it was the prosecutrix who wanted the physical relations. He submits that the applicant has not only joined investigation but also cooperated in giving his voice sample and mobile phone.

3. The bail application is resisted by learned APP for the State duly assisted by learned counsel for the complainant. It is stated that the prosecutrix in her statement recorded under Section 164 Cr.P.C reiterated her allegations made in the complaint. The investigation is still pending and the charge-sheet is yet to be filed as the mobile phone seized from the applicant has been sent to FSL. On a specific query put to the learned APP for State, he states upon instructions from the IO that the verification has been done from the concerned hotels wherein entries have been found in the name of the applicant and the prosecutrix.

4. I have heard learned counsel for the parties and perused the record.

5. Both the applicant and the prosecutrix were mature and aged about 29 years at the time of incident. A reading of the FIR would show that both were known through their fathers and came in contact with each other in the year 2021. The prosecutrix has alleged that first time the relations were sought to be established on 13.08.2022 in a hotel. It is alleged that she was made to consume cold drink mixed with alcohol. However, on that day, no physical relations were established. The prosecutrix had again accompanied the applicant to different hotels. The applicant has already joined



investigation and has given his voice samples. The transcript of the audio conversation between the applicant and the prosecutrix has already been sent to the FSL.

6. Keeping in view the aforesaid facts and circumstances and the fact that the applicant has joined the investigation in the present case, the interim protection granted to the applicant vide order dated 04.03.2024 is made absolute and it is directed that in the event of arrest, the applicant be released on bail subject to him furnishing a personal bond in the sum of ₹25,000/- with one surety of like amount to the satisfaction of the Arresting Officer/Investigating Officer/SHO of the concerned Police Station and also subject to the following further conditions:-

- (i) At the time of furnishing bail bond, the applicant shall provide the mobile number, which he undertakes to keep operational at all times during the pendency of the trial.
- (ii) The applicant shall join the investigation as and when, he is asked for.
- (iii) The applicant shall inform the concerned Investigating Officer about his current residential address.
- (iv) In case of change of residential address/contact detail, the applicant shall promptly inform the same to the concerned Investigating Officer/SHO.
- (v) The applicant shall not directly or indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
- (vi) The applicant shall regularly appear before the trial Court as and when the charge sheet is filed.

7. The application is disposed of in the above terms.

8. Needless to state that nothing observed hereinabove shall amount to



an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

APRIL 15, 2024/rd