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

+ **BAIL APPLN. 807/2024**

VISHWAS SINGH

..... Petitioner

Through: Mr. Narender Kr. Verma and
Mr. Shivander Singh, Advocates.

versus

STATE GOVT. OF NCT OF DELHI

..... Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for
the State with SI Sanjeeta, PS: Mukherjee Nagar.
Ms. Vrinda Bhandari, Ms. Anandita Rana, Mr.
Madhav Aggarwal and Ms. Pragya Basaiyan,
Advocates for Complainant.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

27.05.2024

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1. This is an application filed on behalf of the applicant seeking anticipatory bail in case FIR No. 67/2024 dated 22.01.2024 under Sections 328/376 IPC, registered at PS: Mukherjee Nagar.
2. In a nutshell, case of the prosecution is that the complainant, aged 43 years filed a complaint that she was living with a 14-year-old daughter at the given address after being separated from her husband since 2010 and a divorce petition was pending. After about 2 years, one day she hired a taxi driven by the applicant for going to Haridwar. During the journey, they became friends and she took his mobile number. After few months, she again hired his car on a monthly rent as her father was suffering from old age diseases. Complainant treated the applicant like a brother and used to tie



Rakhi. However, in the afternoon of 15.09.2021, when she was alone, applicant came and brought some sweets, which she consumed and became unconscious and he raped her. Thereafter he promised to marry her and so she did not lodge any complaint. Complainant alleged that she had been giving jewellery also to the applicant so that he could clear his debts. After some time, the applicant stopped talking to her and refused to marry or return the money and jewellery borrowed from her. At this stage, the complaint was lodged.

3. By order dated 11.03.2024, Court granted interim protection to the applicant against any coercive action, subject to the applicant joining investigation and co-operating therein as well as furnishing the mobile number and keeping the same active at all times. Interim order has continued in favour of the applicant till date.

4. Status report has been filed. Mr. Chauhan, learned APP for the State, relying on the status report, submits that the applicant has joined the investigation and is co-operating. He had joined investigation on 02.02.2024 and was thoroughly interrogated on the allegations levelled against him, which he denied. On 04.02.2024, applicant again joined investigation and produced 19 photographs along with certificate under Section 65(B) of the Indian Evidence Act, 1872 and one affidavit containing 8 pages in support of the plea that the relationship between the families of the applicant and the complainant were cordial and she used to tie Rakhi and treated him as a brother. Photocopy of the affidavit was taken into possession through a seizure memo and was filed. Potency test of the applicant was conducted at RML Hospital on 17.02.2024, wherein it was opined that there was nothing to suggest that the accused was incapable of having sexual intercourse.



Armed with the interim protection order granted by this Court on 11.03.2024, applicant again joined investigation and produced the screenshot of his timeline on the date of incident i.e. 15.09.2021 stating that he did not visit the house of the complainant. A letter has been sent to the Google via e-mail for verifying the timelines given by the applicant. As per the SCRB report, no previous involvement/conviction of the applicant has been found. Therefore, according to the State, applicant has joined investigation so far and has co-operated and produced number of documents which *prima facie* are in his favour.

5. Learned APP, on instructions from the IO, further states that no custodial interrogation is required and instead it is the complainant who is not co-operating. A notice was served on her under Section 91 Cr.P.C. on 04.03.2024 for production of certain documents but she failed to join investigation.

6. Learned counsel for the applicant states that the applicant is innocent and has been falsely implicated. He was like a brother to the complainant and she used to tie *rakhi* to him and relevant photographs will support this fact. It is further stated that applicant has not misused the liberty granted by this Court and there is no allegation that he has tampered with evidence or threatened or intimidated the complainant or any other person associated with this case. Applicant is willing to join further investigation, as and when directed by the IO and undertakes to co-operate. Counsel further states that applicant shall not contact the complainant in any manner whatsoever or visit the locality where she resides.

7. Learned counsel for the complainant opposes the bail application on the ground that the allegations are serious and recovery of jewellery is yet to



be made. It is denied that complainant is not cooperating with the investigation.

8. Heard counsels for the applicant and the complainant as well as learned APP for the State.

9. Applicant has been on interim protection granted by this Court on 11.03.2024. He has joined investigation and is co-operating and has undertaken to join further investigation, as and when directed by the IO. There is no allegation that he has misused the liberty granted by this Court and no custodial interrogation is required. All relevant material including photographs, etc. have been handed over by the applicant and are in police possession.

10. Considering the aforesaid facts this Court is of the view that the applicant has made out a case for grant of pre-arrest bail. Accordingly, interim order dated 11.03.2024 is made absolute and it is directed that in the event of arrest, applicant shall be released on bail on his furnishing a personal bond in the sum of Rs. 30,000/- with two sureties of the like amount to the satisfaction of the Trial Court and further subject to following conditions:

- i. Applicant shall not leave the country without prior permission of the Trial Court;
- ii. He shall furnish his mobile number to the IO and keep the same active at all times and shall not change the mobile number without prior intimation to the IO and the Trial Court;



- iii. He shall appear before the Trial Court on the dates of hearing and/or for any further investigation, as and when directed by the IO;
- iv. He shall not, directly or indirectly, indulge in any illegal activity or make any inducement, threat or promise to any person associated with the case including the complainant; and
- v. He shall furnish his current residential address to the IO and intimate any change in the same to the IO and the Trial Court by way of affidavit.

11. Bail application stands disposed of in the aforesaid terms, making it clear that this Court has not expressed any opinion on the merits of the case.

JYOTI SINGH, J

MAY 27, 2024/shivam