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

+ BAIL APPLN. 837/2024
ANUJ BHATI

..... Applicant

Through: Mr. Nagendra Kasana &
Ms Anjana Kasana, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State
SI Maneeta PS- Ambedkar
Nagar
Mr. Mustaq Ahmed & Ms.
Afsana, Advs. with
complainant in person

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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05.09.2024

1. By order dated 06.03.2024, this Court had protected the applicant on him joining and cooperating with the investigation.
2. The FIR No. 113/2024 dated 13.02.2024, under Sections 354A/354D/506/509 of the Indian Penal Code, 1860 was registered on the complaint given by the prosecutrix alleging that when she had gone to the market, the applicant came from behind and grasped her hand and, thereafter, blackmailed and abused her. She also complained that the applicant has been calling her through various telephone numbers.
3. It is an admitted case that the applicant and the prosecutrix were in a friendly relationship. The prosecutrix alleged that when they had a fight and stopped talking to each other, the applicant started stalking her.
4. The applicant was granted interim protection by this Court



on 06.03.2024. It is not disputed that the applicant has since joined investigation and it is not alleged by the prosecution that he has not cooperated.

5. It appears that during the course of investigation, the prosecutrix also gave a statement under Section 164 of the Code of Criminal Procedure, 1973 wherein she, for the first time, stated that about four to five months ago, when she had gone to meet the applicant, he had taken her to a hotel and made physical relations with her forcefully. No such allegation was made when the complaint was made which led to the registration of FIR.

6. The statement, *prima facie* appears to have been given to improve the case. The parties appear to have been in a consensual relationship and for reasons unknown at this stage, the allegations have been made that the applicant had a forceful physical relation with the prosecutrix. No date has been mentioned by the prosecutrix as to when the applicant established forceful physical relationship with her.

7. The status report indicates that it is, in fact, the victim who has not been cooperating with the investigation. The only instance of non-cooperation against the applicant as mentioned in the status report is that he is not giving specific answers of the questions. It is trite law that merely because an accused person does not confess to the allegations levelled against him and make self-incriminating statements, it cannot be said that he isn't cooperating with the investigation [Ref. ***Bijender v State of Haryana : Special Leave to Appeal (Crl.)No. 1079/2024***, decided on 06.03.2024].

8. The learned counsel for the complainant submits that the applicant has been threatening the complainant. Undisputedly, the complaint in that regard has already been given to the State



and appropriate action would be taken by the State in the complaint filed by the complainant.

9. It is not in doubt that an order for bail cannot be passed in a routine manner so as to allow the accused to use the same as shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with arrest.

10. The purpose of custodial interrogation is to aid the investigation and is not punitive. In the present case, this Court is not of the opinion that custodial interrogation of the applicants is specifically needed.

11. Any apprehension regarding the applicant tampering with the evidence or threatening the witnesses can be taken care of by imposing appropriate conditions.

12. In view of the above, without commenting further on the merits of the case, in the event of arrest, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹50,000/- with one surety of the like amount, subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicant shall join and cooperate with investigation as and when directed by the Investigating Officer;
- b. The applicant shall not contact the prosecutrix or tamper with the evidence in any manner;
- c. The applicant is directed not to make any phone call to the prosecutrix or any of her family members;
- d. The applicant shall not reside in or visit the locality where the prosecutrix resides;
- e. The applicant shall furnish a proof of residence where he shall reside, which should be at least 5 KM far from the locality where the prosecutrix resides,



subject to the satisfaction of the IO.

13. The State is at liberty to file an appropriate application for modification / vacation of the present order in case it finds that the applicant is threatening the complainant or is found to be violating any of the conditions.

14. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

15. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

SEPTEMBER 5, 2024

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