



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

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Reserved on : 07.12.2023
Pronounced on : 10 .01.2024

+ **BAIL APPLN. 1295/2023**

AMIT KUMAR

..... Petitioner

Through: Mr. C.M.Sangwan and Mr. Saksham
Aggarwal, Advocates.

versus

THE STATE(GOVT. OF NCT OF DELHI) & ANR. ... Respondents

Through: Mr. Amit Ahlawat, APP for the
State with SI Sangeeta with victim.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present petition has been filed under Section 438 Cr.P.C. by the petitioner seeking anticipatory bail in case FIR No.933/2022 under Sections 376/313 IPC registered at Police Station Shahbad Dairy.
2. Learned counsel for the petitioner submitted that petitioner has joined the investigation. He further submitted that initially the FIR was registered under POCSO Act as well but the victim was found to be major on the date of the incident. He further submitted that as per the victim first relation took place between them in 2018 and the FIR was lodged on 13.12.2022. He further submitted that there is not even an iota of evidence on record to show



that victim had a miscarriage in the month of July, 2021. He further submitted that the relations were consensual. He further submitted that at no point of time the petitioner ever promised to marry the victim.

3. On the other hand, learned APP for the State has argued on the lines of the status report. Learned APP submitted that petitioner, on the pretext of marriage, made physical relations with the victim and victim consented only on promise of marriage. He further submitted that as both the parties belong to the different religion, petitioner has refused to marry the victim. He further submitted that victim got pregnant in July 2021 and later resulted into miscarriage as she was given beatings by the petitioner.

4. As far as the contention of learned APP that the victim had miscarriage because of the beatings given by the petitioner, there is no evidence on record that the victim was pregnant at any stage or she suffered miscarriage. The alleged miscarriage, according to the prosecution, took place on 24.07.2021 and FIR was lodged on 13.12.2022.

5. On my query from the Investigating Officer, he submitted that there is no document to the effect that victim was pregnant or she suffered any miscarriage.

6. As per the allegations, the petitioner made physical relations with the victim from 2019 till 2021 in a hotel situated at Bawana on the pretext of false marriage, in my opinion, looking into the facts and circumstances of the case, near about more than two years' time was sufficient for the victim to realise as to whether the promise of marriage is false from its very inception but the victim continued to meet the petitioner during the period of two years in an OYO hotel and according to her she got pregnant and at the behest of the petitioner the pregnancy was terminated and she was also



beaten by the petitioner which resulted in her miscarriage.

7. Nothing in the form of MLC/medical document is there on record to suggest that the victim became pregnant or because of the act of the petitioner she suffered a miscarriage. In the FIR, the victim had even stated that she was a minor on the date of the incident but later on, during the course of the investigation, it was found that the victim was major on the date of the incident. The relationship appears to be consensual in nature. As far as the allegations made by the victim 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. There is delay of more than 1 ½ years in lodging the present FIR.

8. As per the status report, the petitioner has already joined the investigation. Nothing is to be recovered from the petitioner. Therefore, in these circumstances, it is ordered that in the event of arrest, the petitioner be released on 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 is directed to join the investigation as and when called by the Investigating Officer.

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

RAJNISH BHATNAGAR, J

JANUARY 10, 2024/ib