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

+ **BAIL APPLN. 1313/2023**

MOHD.ABID

..... Petitioner

Through: Mr. Aqib Jamil, Advocate.

versus

STATE, GOVT. OF NCT OF DELHI & ANR Respondents

Through: Mr. Sanjeev Sabharwal, APP for
State with SI Vikas Rathi PS Sadar
Bazar, Delhi.

Mr. Vineet Hans, Advocate along with
father of complainant.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **16.04.2024**

1. The present application has been filed under Section 438 Cr.P.C. seeking anticipatory bail in FIR No. 21/2023 registered under Sections 376/363/354/406/328/498A/506/509/34 IPC and Section 4 of POCSO Act at P.S. Sadar Bazar, Delhi.

2. Learned counsel for the petitioner/applicant states that the present case arises out of a matrimonial dispute between the applicant's son and the complainant, who got married to each other on 22.10.2022. It is stated that the applicant is 50 years of age and has not misused the concession of interim protection granted to him. It is further submitted that all the other co-accused persons have already been released on regular bail. It is stated that there are improvements and contradictions in the statement of the complainant recorded under Section 164 Cr.P.C. In this regard, it is stated that while in her initial complaint, she had levelled allegations of insertion of



her finger, in her statement recorded under Section 164 Cr.P.C., it was stated that besides inserting the finger, the applicant had also removed her dupatta and pressed her chest. Lastly, reference is made to the status report (index bearing number 2097726) wherein it has been stated that applicant's custodial interrogation is not required.

3. The bail application is vehemently opposed by learned APP for State duly assisted by learned counsel for the complainant. It is stated that in her complaint, the complainant had stated that the applicant had inserted finger in the complainant's private part. It is also stated that the victim was aged about 15 years and 8 months on the date of registration of the FIR. It is further stated that another FIR being FIR No.758/2023 came to be registered on 25.07.2023 under Sections 195A/509/506/34 IPC and Section 12 POCSO Act PS Sadar Bazar, Delhi against the applicant and other accused for threatening the father of the complainant.

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

5. A reading of the complaint would show that the complainant and applicant's son were known to each other prior to their marriage, which took place on 22.10.2022. The marriage survived only for one month and that, the complainant left the matrimonial home on 30.11.2022. It has further been alleged by the complainant that not only the applicant but her brother-in-law also had an evil eye on her. Insofar as the present applicant is concerned, it is alleged that 3/4 days after the incident that took place on 20.11.2022, the applicant had come to the room of the complainant and caught hold of her. It is further stated that the applicant thereafter inserted finger in the private part of the complainant.

6. I have gone through the complaint as well as statement of the



complainant recorded under Section 164 Cr.P.C. Prima facie, there is some force in the submission of learned counsel for the applicant on the aspect of variance in the statement of the prosecutrix. It would be tested in the trial. Considering the fact that all the other co-accused persons have already been released on regular bail, the interim protection granted to the applicant vide order dated 25.05.2023 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 Rs.10,000/- 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 inform the concerned Investigating Officer about his current residential address.
 - (iii) In case of change of residential address/contact detail, the applicant shall promptly inform the same to the concerned Investigating Officer/SHO.
 - (iv) 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.
 - (v) 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 16, 2024/rd