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

+ BAIL APPLN. 1507/2023

SUNIL SEHWAG

..... Petitioner

Through: Mr. R.S. Malik, Mr. Sahil
Malik & Mr. Sahil Lakra,
Advs.

versus

THE STATE (GOVT. OF NCT OF DELHI)

Respondent

Through: Mr. Hitesh Vali, APP for
the State with SI Annu, PS
Mundka
Mr. U.S. Gautam, Adv. for
complainant alongwith
victim

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+ BAIL APPLN. 1509/2023

SAGAR SEHWAG

..... Petitioner

Through: Mr. R.S. Malik, Mr. Sahil
Malik & Mr. Sahil Lakra,
Advs.

versus

THE STATE

..... Respondent

Through: Mr. Hitesh Vali, APP for
the State with SI Annu, PS
Mundka.
Mr. U.S. Gautam, Adv. for
complainant alongwith
victim.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

15.03.2024

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1. The present applications are filed seeking Pre-arrest bail in FIR no. 319/2023, dated 15.04.2023, for offences under Sections 354/354-A/354-B/498A/406/376/34 of the Indian Penal Code, 1860, registered at Police Station Sultanpuri.
2. The applicant in Bail APPLN 1507/2023, is the father-in-law (hereafter '**Applicant No.1**') of the complainant and



applicant in Bail APPLN 1509/2023, is the brother-in-law (hereafter '**Applicant No.2**'), of the complainant.

3. The FIR was registered on a complainant given by the complainant on 14.04.2023, alleging that she was subjected to cruelty, sexual harassment by the present applicants.

4. It is stated that the complainant got married to one Sahil Sehwaag on 01.12.2021. As per the FIR it is alleged that on 13.10.2022, at around 06:00 PM when the complainant was in kitchen the Applicant no.1 came from behind and entered his hand in her upper clothes and started pressing her breasts to which she resisted, and when she disclosed the entire incident to her husband, he told the complainant that his father (Applicant No.1) did it by mistake and his mother would counsel him. It is further alleged that thereafter again another day the Applicant No.1 entered his hand in her suit with bad intention and pressed her breasts.

5. It is further alleged that on 24.10.2022 in the evening time Applicant No.2 came near the complainant and dropped her into the bed and pressed her breasts. It is further alleged that he tried to touch her private part, and during this process her clothes were also torn. It is further alleged that the Applicant No.2 repeated the abovesaid act whenever she was alone. It is further alleged that she informed her mother-in-law about the alleged incident to which she ignored and said that the relationship of devar and bhabhi is such, devar can do all this act with his bhabhi as she is his half wife. It is further alleged that due to all this the complainant was depressed and left her matrimonial home and was living at her paternal home.

6. The learned Counsel for the applicants submits that the applicants have falsely been implicated in the present case and



the present FIR arises out of a matrimonial discord. He submits that the complainant had left her matrimonial house on 08.01.2023, on the pretext that her mother is unwell and is undergoing some operation. He submits that the complainant since then has never returned back home except one day on the occasion of Basant Panchmi when she came to collect her jewellery stating the reason that she needs to wear it at friend's function.

7. He submits that the present FIR is nothing but an afterthought since there is enormous delay of around six months in lodging the FIR in question, which is not explained by the complainant. He submits that first incident allegedly took place on 13.10.2022 and thereafter on 24.10.2022, but the written complaint was only given on 14.04.2023.

8. He submits that the FIR was initially registered under Sections 354/354(B)/34 of the IPC and Section 376 of the IPC has subsequently been added on the basis of her statement recorded under Section 164 of the Cr.P.C.

9. He submits that as per the FIR it is alleged that Applicant No.1 misbehaved with her at around 06:00 PM on 13.10.2022, the date in question refers to the occasion of Karva Chauth and the allegations *qua* Applicant No.2 with respect to misbehaving with the complainant in the evening of 24.10.2022, refers to the occasion of Diwali. He submits that on the said dates the entire family had celebrated the festivals with full spirit and same is evident from the images clicked on both the days. He submits that two days later, that is on 26.10.2022, the entire family had also gone to celebrate the Applicant No.1's birthday

10. He submits that the present case is nothing but a fraudulent device on the part of the complainant to harass and cause



disrespect of the applicants and the entire family. He submits that the complainant was involved in extra marital activity and even after being confronted by her husband, she continued to engage and thereafter complainant left the matrimonial house.

11. He submits that the applicants were granted interim protection by this court *vide* separate orders both dated 08.05.2023, and applicants have joined the investigation. He submits that the chargesheet has already been filed and custodial interrogation is not required.

12. The learned Additional Public Prosecutor for the State submits that the allegations qua the applicants are serious in nature. He submits that during the course of investigation the statement of the Prosecutrix was also recorded under Section 164 of CrPC, in which the complainant had supported the case of the prosecution and subsequent to which Section 376 of the IPC is also added against the Applicant No.1.

13. He submits that during the course of investigation Sections 498A/406 were also added and during the course of investigation both the applicants had joined the investigation and their medical examination was also conducted. He submits that an article list shared by the victim was shared with the applicants and the admitted article list was also provided by applicants to the investigating officer.

14. I have heard learned counsel for the parties.

15. It is not disputed that subsequent to the interim protection being provided the applicants have joined the investigation and the chargesheet has already been filed.

16. The present case appears to be one arising out of matrimonial disputed between the parties. It is pointed out that a complainant under the Protection of Women from Domestic



Violence Act, 2005, ('DV Act') was filed by the complainant against her husband, applicants (father-in-law and brother-in-law), and her mother in law. A PCR call was also made on 14.04.2023 by the complainant, where she had stated that she was not allowed to enter her matrimonial house due to a family dispute. The FIR was registered on the very next day.

17. It is not in doubt that order for grant of bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest. In cases where the accused has joined investigation, cooperating with the Investigating Agency and is not likely to abscond, the custodial interrogation should be avoided.

18. The purpose of custodial interrogation is to aid the investigation and is not punitive. From the perusal of the status report, it appears that the investigation is complete to a large extent and does not require the custodial interrogation of the applicant for the purpose of Investigating Agency to complete the remaining investigation, if any.

19. It is not in doubt that a mere statement of the prosecutrix is sufficient for the establishing the offence of Rape and the same does not require corroboration, if the same inspires confidence.

20. However it cannot be denied that there has been inordinate delay between the alleged incident and the complainant. It is also not denied that parties are litigating with each other which has led to filing of the complaint under DV Act.

21. The learned Additional Public Prosecutor for the State has not expressed any apprehension of the applicant fleeing from justice or tampering with evidence.



22. The apprehension, even otherwise, can be taken care of by putting appropriate conditions.

23. In view of the above, this Court is of the opinion that the custodial interrogation of the applicant is not required. It is directed that in the event of arrest, the applicants be released on bail on furnishing a personal bond of ₹25,000/- with two sureties of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicants shall join and cooperate with the investigation as and when directed by the IO;
- b. The applicants will not leave the country without the permission of the learned Trial Court ;
- c. The applicants shall not contact the complainant / witnesses or tamper with the evidence in any manner;
- d. The applicants shall give their mobile numbers to the concerned IO/SHO and shall keep their mobile phones switched on at all times.

24. It is clarified that the observations made in the present order are for the purpose of deciding the present pre-arrest bail applications, and should not influence the outcome of the Trial and should not be taken, as an expression of opinion, on the merits of the case.

25. The bail applications are allowed in the aforesaid terms.

26. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

MARCH 15, 2024

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