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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **BAIL APPLN. 1275/2024**

**ABHISHEK**

..... Petitioner

Through: Mr. Pushpreet Arora, Advocate.

versus

**STATE GNCTD AND ANR.**

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State  
with W/SI Kajal Tyagi, P.S.  
Paharganj.  
Ms. Vrinda Kapoor, Ms. Saumya  
Soni and Mr. Vishal Vaid, Advocates  
for respondent No.2 with respondent  
No.2 in person.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

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**22.04.2024**

1. Present bail application has been filed under Section 438 Cr.P.C. seeking anticipatory bail in FIR No. 188/2024 registered under Section 376 IPC at P.S. Paharganj.
2. Learned counsel for the applicant states that in the present FIR, the prosecutrix in her complainant has neither given any specific date nor the place where the alleged incident had taken place. He further submits that during the pendency of the investigation, the prosecutrix had herself given a letter dated 12.03.2023, which was duly received by SI Raj Nandni, wherein she has stated that applicant had not made any objectionable video of her. Learned counsel further states that the prosecuterix had earlier also filed



similar complaint being FIR No. 0905/2021 registered under Sections 328/376 IPC at P.S. Nihal Vihar against one *Neeraj Gupta*. In this regard, he has referred to the order dated 15.11.2021 passed by learned ASJ whereby accused in the said case was released on bail. In the said proceedings, the complainant had filed an affidavit dated 01.11.2021 and also given a statement on the same date to the I.O. to the effect that she had registered the case against the said accused as she was angry because the accused had refused to marry her. It is further submitted that as per the information of the applicant, another complaint being FIR No. 13/2023 has now been given by the complainant at Mahila Thana, Sri Ganganagar, Rajasthan.

3. Bail is opposed by the learned APP for the State, who is duly assisted by Ms. Vrinda Kapoor, learned Amicus Curiae, who has been appointed at the request of the complainant. Learned APP states that the allegations against the applicant are grave and serious in nature. He further states that prosecutrix in her statement recorded under Section 164 Cr.P.C., had supported her allegations made in the complaint. Learned Amicus Curiae, on instructions from the prosecutrix, states that insofar as FIR No. 0905/2021 is concerned, the prosecutrix had not sworn any affidavit nor given any statement and in this regard, the prosecutrix has filed a complaint against her counsel with the Bar Council. She, on further instructions from the complainant, who has gone through the complaint, confirms that the complaint for the offence punishable under Section 376 IPC has been filed by her at P.S. Sri Ganga Nagar, Rajasthan.

4. I have heard the learned counsels for the parties and perused the material placed on record.



5. A perusal of complaint would show that it was stated that at the time of the incident, the prosecutrix was already married however, her divorce was pending. The allegations against the applicant are that he had established physical relations with the prosecutrix on the false pretext of marriage. The present FIR has been registered after about 2 years from the alleged incident. Learned APP has stated that till date, the prosecutrix has not identified any hotel where the alleged incident took place. In Prashant Bharti v. State of NCT of Delhi, reported as **AIR 2013 SC 2753**, Supreme Court has held as under :-

*“It is relevant to notice, that she had alleged, that she was induced into a physical relationship by Prashant Bharti, on the assurance that he would marry her. Obviously, an inducement for marriage is understandable if the same is made to an unmarried person. The judgment and decree dated 23.9.2008 reveals, that the complainant/prosecutrix was married to Lalji Porwal on 14.6.2003. It also reveals, that the aforesaid marriage subsisted till 23.9.2008, when the two divorced one another by mutual consent under Section 13B of the Hindu Marriage Act. In her supplementary statement dated 21.2.2007, the complainant/prosecutrix accused Prashant Bhati of having had physical relations with her on 23.12.2006, 25.12.2006 and 1.1.2007 at his residence, on the basis of a false promise to marry her. It is apparent from irrefutable evidence, that during the dates under reference and for a period of more than one year and eight months thereafter, she had remained married to Lalji Porwal. In such a fact situation, the assertion made by the complainant/prosecutrix, that the appellant-accused had physical relations with her, on the assurance that he would marry her, is per se false and as such, unacceptable.....”*

6. Similar observations have also been made by the apex court in XXXX v. State of Madhya Pradesh & Anr., reported as **(2024) 3 SCC 496**.

7. Considering the aforesaid, 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 ₹25,000/- 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 his mobile number, which he undertakes to keep operational at all times during the pendency of the trial.
  - (ii) The applicant shall join the investigation as and when he is asked to do so.
  - (iii) The applicant shall inform the concerned Investigating Officer about his current residential address.
  - (iv) In case of change of residential address/contact detail, the applicant shall promptly inform the same to the concerned Investigating Officer/SHO.
  - (v) The applicant shall not directly or indirectly try to get in touch with the complainant/prosecutrix or any other prosecution witnesses or tamper with the evidence.
  - (vi) The applicant shall regularly appear before the trial Court as and when the charge sheet is filed.
8. The application is disposed of in the above terms.

**MANOJ KUMAR OHRI, J**

**APRIL 22, 2024**

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