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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 3651/2023

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.....Petitioner

Through: Mr. Jai Subhash Thakur, Advocate
with petitioner in person.

versus

THE STATE GOVT. OF NCT OF DELHI &
ANR.

.....Respondents

Through: Mr. Laksh Khanna, APP for State
with W/SI Suman, P.S. Ghazipur.
Mr. Archit Arora, Advocate for
respondent No.2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

29.08.2024

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1. By way of present petition, the petitioner seeks cancellation of anticipatory bail granted to respondent No.2 in FIR No. 30/2023 registered under Sections 376D/376/354C/506/34 IPC and Sections 27/54/59 of the Arms Act at P.S. Ghazipur, Delhi.
2. Mr. Thakur, learned counsel for the petitioner submits that the impugned order was passed without giving opportunity of being heard either to the petitioner or her counsel. He further submits that even otherwise a reading of the impugned order would show that the same was passed on extraneous considerations and in spite of appreciating the gravity of the offence. He further submits that mere non-mentioning of the present incident in the earlier FIRs ought not to have been a ground to release the respondent No.2 on anticipatory bail.
3. Ld. APP for the State has read through the impugned order as well as



Action Taken Report (ATR). He submits that the present FIR came to be registered on an application preferred by the petitioner under Section 156(3) Cr.P.C. In the said proceedings, an ATR came to be filed on 07.05.2022. He submits that after conclusion of investigation even the charge-sheet stands filed. Ld. APP further points out that the contention that the petitioner or her counsel were not present or heard when the anticipatory bail was granted is entirely misleading. He, on instructions from the I.O., submits that both the petitioner as well as her counsel were present during the hearing of the said bail application.

4. The petition is vehemently resisted by Id. counsel for the respondent No.2 who submits that the petitioner was married to the co-accused *Laxman* (now deceased). The petitioner and *Laxman* were granted divorce by mutual consent on 24.03.2018 whereafter the petitioner lodged FIR No. 308/2018 under Sections 376/377/506 IPC at P.S. Mandawali against her husband. Later, another FIR No. 369/2020 was also lodged by the petitioner against her husband under Sections 354D/506 IPC at P.S. Shahbad Dairy. He further submits that while admitting the respondent No.2 on anticipatory bail, the Sessions Court had gone through the contents of the three FIRs and had also noted that there was a huge delay in reporting the matter. It is pointed out that the incident in the present FIR is alleged to have occurred on 16.06.2017. As per the allegations, the incident occurred in the presence of co-accused *Laxman* who also filmed it. However, the said incident is neither stated by the petitioner in the two previous FIRs lodged by her against her husband-*Laxman* wherein her statement under Section 164 Cr.P.C. was also recorded. It is further stated that petitioner as well as her ex-husband-*Laxman* and respondent No.2 were all known to each other due



to them hailing from a common village in *Bhagalpur Vihar*. In fact the respondent No.2 is a childhood friend of petitioner.

5. I have heard the learned counsels for the parties and gone through the perused the material placed on record.

6. The contention that the impugned order came to be passed in absence of the petitioner or her counsel is incorrect on the face of it as the reading of the impugned order would show that not only is their presence mentioned but even their contentions are noted. This factum also proves that their contention that arguments on behalf of the petitioner were not noted is incorrect. Furthermore, a plain reading of the impugned order would show that the Sessions Court took into account the fact that the incident was alleged to be of the year 2017 when the petitioner was married to co-accused *Laxman*. In fact, the allegation is that the entire incident was also video graphed by her own husband. The said factum is not mentioned in either of the subsequent FIRs registered against her husband. The present complaint came to be lodged in the year 2022. Notably, in the context of FIR No. 306/2018 certain photographs were placed on record. During the course of investigation in the present FIR, mobile phones of co-accused *Laxman* and present petitioner were seized. As per learned APP, however, no such obscene photographs or video were recovered therefrom. In this regard, Ld. APP, on further instructions from IO, submits that rather joint photographs of the petitioner along with respondent No.2 are seen, which are not inappropriate or objectionable.

7. In the considered opinion of the Court, the Sessions Court has rightly considered the aforesaid circumstances while admitting the respondent No.2 to anticipatory bail. It is settled position in law that a bail order is not to be



lightly interfered with unless there are strong grounds made out for either non-appreciation of material facts or taking into account extraneous material, which is not the case here. Accordingly, this Court finds no ground to interfere with the impugned order. Consequently, the present petition is dismissed.

MANOJ KUMAR OHRI, J

AUGUST 29, 2024/ga