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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1291/2024

AMIT KUMAR

.....Petitioner

Through: Mr.Vinay Kumar Sharma, Mr.Prince and
Mr.Aaditya, Advocates

versus

STATE

.....Respondent

Through: Mr.Aashneet Singh, APP for State with
Insp. Suman Kumar
Mr.Kshitiz Guar, Advocate for complainant

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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16.07.2024

1. By way of present application, the petitioner/applicant seeks anticipatory bail in FIR No.146/2024 registered under Sections 328/376/506 IPC at P.S. DBG Road, Delhi.
2. Learned counsel for the applicant submits that the prosecutrix is married to the applicant's brother-in-law. He further submits that as per the allegations levelled in the FIR, during the subsistence of the said marriage, a matrimonial dispute arose and while the prosecutrix was at her parental home, the applicant started visiting her. On one occasion, she agreed to come to Delhi with the applicant whereafter she was taken to *Hotel Seneja Inn* wherein she was given a cold drink laced with some stupefying substance. It is alleged that the applicant thereafter made physical relations with her. He contends that the concerned I.O. has verified that the prosecutrix and the applicant had checked into the aforesaid hotel after giving their identify proofs and as such, the relations, if any, were consensual. It is also stated that the applicant has joined the investigation



and has also handed over his mobile phone. Lastly, it is stated that though the incident is stated to be of 18.06.2021, the complaint came to be filed only in September 2023 and during this time, the prosecutrix had voluntarily cohabited with the applicant.

3. Learned APP for the State, duly assisted by learned counsel for the complainant, has opposed the bail application. He submits that the applicant had exploited the matrimonial dispute between the complainant and her husband. It is further stated that the applicant had given a mobile phone to the prosecutrix and thereafter took it back. In the said mobile phone, there was an audio recording between the prosecutrix and one *Sachin* with whom the prosecutrix was about to marry. The said audio recording was transmitted by the applicant to his brother-in-law i.e., the husband of the prosecutrix. Learned APP for the State submits that applicant's mobile phone has been seized.

4. Insofar as the incident relating to Section 376 IPC is concerned, it is noted that at the time of the incident, the prosecutrix was already married. The entry of the prosecutrix and the applicant in the aforesaid hotel is verified by the concerned I.O. The hotel register is stated to have been seized and ID proofs given at the time of visiting the hotel have also been seized and verified.

5. Keeping in view the aforesaid facts and circumstances, and without commenting further on the merits of the case, the interim protection granted to the applicant vide order dated 15.04.2024 is made absolute and it is directed that in the event of arrest, the applicant be released on bail subject to his 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 the 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 asked.
 - (iii) The applicant shall inform the concerned Investigating Officer about his current residential address.
 - (iv) In case of change of residential addresses/contact details, 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 or any other prosecution witnesses or tamper with the evidence.
 - (vi) The applicant shall regularly appear before the trial Court.
6. The application is disposed of in the above terms.
7. 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

JULY 16, 2024

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