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

% **Date of Decision: 30.04.2024**

+ **BAIL APPLN. 1493/2024**

ROHIT KUMAR

..... Petitioner

Through: Mr. Omkar Sharma, Mr. V.S. Tiwari and Mr. Deepak Malik, Advocates

versus

THE STATE (NCT OF DELHI) THROUGH SHO OF PS

MANGOL PURI & ANR.

..... Respondents

Through: Mr. Satish Kumar, APP for the State with Ms. Saumya Goyal, Mr. Jai Bhagwan and Mr. Ashok Kr. Shukla, Advocates and with SI Namita, P.S. Mangolpuri.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. (ORAL)

1. The instant application under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the applicant/accused seeking grant of anticipatory bail in case FIR No. 145/2024, registered at Police Station Mangolpuri, Delhi, for offence under Section 376(n)/506 of Indian Penal Code, 1860 ('IPC')
2. Issue notice. Mr. Satish Kumar, learned APP accepts notice on



behalf of State.

3. Brief facts of the case, as alleged by the complainant, are that the complainant had been working as an event manager and on 18.02.2021, she had met the applicant during an event. Thereafter, they had kept meeting each other and were in a consensual relationship with each other. However, she had later come to know that the applicant was already married and when he had forced the complainant to get married to him, she had refused the same and had also started maintaining distance from him. The applicant, however, had allegedly threatened to kill the complainant and on 15.01.2023, he had forced her to have physical relations with him at 'X' Guest House, Pushpanjali, Delhi. He had also prepared an inappropriate obscene video of her and used to threaten her that he will post it on social media, and in case she will not have physical relations with him, he will throw acid on her. She had further alleged that he used to threaten her with a gun that he will kill her in case she will not have sexual relations with him. On these allegations, the present FIR was registered, and the complainant was also examined medically.

4. Learned counsel appearing on behalf of the applicant argues that there was a consensual relationship between the parties over all these years, no there was no element of any force or coercion. It is stated that they had also visited Shri Vaishno Devi Ji, on 20.10.2022, and she had stayed with him at a hotel for two days. Thereafter, they had also visited Kasauli, Himachal Pradesh, in June 2023, and she had stayed there with the applicant in a hotel. These hotel bills were paid by the complainant. It is further contended that the complainant



is an event organizer, and is not a minor but an educated woman, who had willingly entered into a relationship with the applicant. It is further argued that she had also visited the home of the applicant on many occasions and had also met his wife, and she was aware that the applicant herein is married. However, after a dispute had arisen between them, and the applicant had refused to give money to her, she had got the present false and fabricated FIR registered against the applicant.

5. Learned APP for the State, on the other hand, argues that the allegations in this case are serious in nature and that the applicant is a habitual offender, involved in several other criminal cases. It is stated that since the accused has recorded a video of the complainant, which he is threatening to post on the social media, and has threatened the complainant repeatedly, the present bail application be rejected.

6. This Court has heard arguments advanced by learned counsel for the applicant and learned APP for the State, and gone through the case file.

7. Having perused the records of the case, this Court is of the opinion that the complainant in the present case has not denied her initial relationship with the applicant, that the same was consensual, and she had kept meeting the applicant on several occasions. However, after she had come to know that the applicant was already married and he had started insisting that she should marry him despite him being already married, the complainant had tried to maintain distance from him. The applicant being unhappy with her decision to maintain distance from him, had started blackmailing her



and he used to threaten her with a gun, which is allegedly in his possession. As alleged, he had also prepared an inappropriate obscene video of the complainant and he used to threaten to post it on social media. It has further come on record in the statement under Section 164 of Cr.P.C. that due to these threats as well as the threat of throwing acid on her and threat of killing her mother, the mother of the complainant had tried to commit suicide twice. On the strength of such threats and blackmailing on the pretext of the inappropriate video in his possession, the applicant had allegedly committed sexual assault upon her, *sans* her consent. Therefore, the incidents of sexual assault, which had taken place, threats being extended to her as she did not want to maintain a relationship with him, after coming to know about the factum of applicant being already married, are of serious nature.

8. In this Court's view, even if the complainant had remained in a consensual relationship with him initially, she had a right to distant herself from the applicant. She has not lodged any complaint about any incident between the period 2021 to 2022, but is only those incidents of sexual assault, which took place after January 2023, on the basis of threats of posting her inappropriate videos on social media, or acid being thrown on her, or her family members being killed, which became a subject matter of the present FIR registered against the applicant.

9. The present applicant has not joined investigation yet, and Non-Bailable Warrants stand issued against him. Further, the Investigating Officer has submitted before this Court that certain



audio clips have been seized wherein the applicant can be heard threatening the complainant. The custodial interrogation of the applicant is also required, considering the allegations of him being in possession of inappropriate videos of the complainant and threatening her with a gun.

10. As summed up by the Hon'ble Apex Court in case of ***Sumitha Pradeep v. Arun Kumar C.K.*** 2022 SCC OnLine SC 1529, the factors to be considered at the stage of grant of pre-arrest bail are (i) *prima facie* case against accused, (ii) nature of offence, and (iii) severity of the punishment.

11. Considering the overall facts and circumstances of the case, seriousness of the offence and the need for custodial interrogation of the applicant, no ground for anticipatory bail is made out.

12. Accordingly, the present application stands dismissed.

13. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

14. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

APRIL 30, 2024/at