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

+ **CRL.M.C. 3561/2024**

MS XXXXXXXXXXXX

..... Petitioner

Through: Mr.Sunil Kapoor, Ms.Richa
Kapoor, Ms.Isha Kapoor Jain,
Advs.

versus

STATE GOVT OF NCT DELHI & ANR. Respondents

Through: Mr.Satinder Singh Bawa, APP
with SI Komal.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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06.05.2024

CRL.M.A. 13675/2024 (Exemption)

1. Allowed, subject to all just exceptions.

CRL.M.C. 3561/2024

2. This petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') challenging the order dated 06.03.2024 (hereinafter referred to as the 'Impugned Order') passed by the learned Additional Sessions Judge-03, Shahdara District, Karkardooma Courts, Delhi (in short, 'ASJ') in Bail Application 121/2024, titled *State v. Arun Verma*, granting Anticipatory Bail to the respondent no.2 herein in FIR No.45/2024 registered under Sections 376/506 of the Indian Penal Code, 1860 at Police Station: Jagat Puri, Delhi.

3. The above FIR has been registered on the complaint of the petitioner, alleging therein that she is fighting a divorce case with her



husband. She had met the respondent no. 2 around 4 years back through Facebook. They both exchanged their numbers and started talking to each other. The respondent no. 2 told the petitioner that he is unmarried and wants to marry her. He said that he knows lots of persons and he can get her case closed very soon and then he shall marry her. The petitioner claims that she fell for the above representation of the respondent no. 2 as she is only 5th pass. One day, the respondent no. 2 called her to Nirman Vihar Metro Station and to his house and stated that he lives there alone. As there was no one in the house, she believed that the respondent no. 2 was not married. In 2021, the respondent no. 2 called her to an Oyo hotel near his house and made physical relation with her. Thereafter, he called her to his house and made physical relation with her. One or two days before Diwali in 2023, she went to the house of the respondent no. 2, where he made physical relation with her. In December 2023, the petitioner sent her photograph with him to the respondent no. 2. On seeing it, respondent no. 2 got annoyed and he asked the petitioner to delete all photographs with him. When the petitioner told respondent no. 2 that these photographs are normal as they are getting married, he took away the Sim Card from her phone and destroyed it as the Sim Card was in his name. Thereafter, he stopped talking to her and threatened to kill her if she goes to the police or court.

4. On the other hand, it is the case of the respondent, that is, the complainant, that during lockdown period in 2021, he received a friend request from the petitioner on Facebook. She also asked for his mobile number. They started talking to each other and became good



friends. Thereafter, the complainant came to know that the respondent no.2 was in the business of jewellery and asked for some financial help for starting her own business of a beauty parlour or restaurant. Upon such request, the respondent no.2 transferred Rs.14 Lacs in the bank account of the complainant by way of PayTm and also gave some cash to her. The respondent no. 2 alleges that as he had to pay a creditor namely, Rankawat Jewels, the complainant issued a cheque drawn on Kotak Mahindra Bank in the name of Rankawat Jewels, but the aforesaid cheque was dishonoured with the remarks '*Funds Insufficient*'. Upon the respondent informing the same to the complainant, she asked to present the cheque again, but the cheque was dishonoured again with the remarks '*Payment stopped by drawer*'. She humiliated the respondent no. 2 in front of his family members and relatives. He, therefore, lodged a complaint against the complainant on 05.01.2024 at PS-Jagatpuri. He submitted that the present FIR was a counterblast to his complaint.

5. The learned ASJ, by the impugned order dated 06.03.2024, while observing that the FIR against the respondent no.2 was registered on 17.01.2024, whereas the complaint by Respondent no.2 against the complainant was registered much prior to that, on 05.01.2024, and that the petitioner had previous litigations with others, granted Anticipatory Bail to the Respondent.

6. The learned counsel for the petitioner submits that the learned ASJ has erred in not appreciating that the respondent no.2 had, pursuant to a notice under Section 91 of the Cr.P.C., provided the alleged mobile phone, however, in the same, WhatsApp had been



deleted. He submits that in the Status Report dated 05.03.2024 filed by the respondent no.1, it had been mentioned that the respondent no.2 is not cooperating in the investigation. He submits that therefore, the learned ASJ has erred in granting the Anticipatory Bail to the respondent no.2.

7. On the other hand, the learned APP, on instructions from the Investigating Officer, submits that the charge-sheet has already been submitted to the Court and custodial interrogation of the respondent no.2 is not required.

8. I have considered the submissions of the learned counsels for the parties.

9. In the present case, the petitioner is a mature lady, who is not only alleged to be fighting a divorce petition with her husband, but has also complained about another person with similar allegations. The physical relationship, even as per the petitioner, was consensual, though she claims that it was on a promise to marry. The effect of the respondent no.2 producing the mobile phone after deleting the WhatsApp from it, shall be considered by the learned Trial Court in the course of trial.

10. It has been repeatedly emphasised that during the trial, the purpose of custody of the accused is not for punishing the accused, but only for ensuring that the accused does not abscond and is available to face the trial and face eventual punishment, if convicted and sentenced. Reference in this regard may be made to the judgment of the Supreme Court in *Vinod Bhandari v. State of Madhya Pradesh* (2015) 11 SCC 502.



11. As the learned APP has stated that the Chargesheet has already been submitted and there is no need for custodial interrogation of the respondent no.2, I do not see any ground to cancel the Anticipatory Bail granted to respondent no.2 vide order dated 06.03.2024.

12. The petition is accordingly dismissed.

NAVIN CHAWLA, J

MAY 6, 2024/Arya/am

Click here to check corrigendum, if any