



\$~2

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

BAIL APPLN. 1787/2024

PRADEEP KUMAR

.....Petitioner

Through: Mr.Rajbir Singh and Mr.Rajiv Praptap
Singh, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for State
Mr. Sarthak Karol, Amicus Curiae

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

%

07.08.2024

1. By way of present bail application filed under Section 438 Cr.P.C., the applicant seeks anticipatory bail in FIR No. 151/2024 registered under Sections 354/342/506/34 IPC & 8/10/12 POCSO act at P.S. Harish Vihar, Delhi.
2. Learned counsel for the applicant submits that the present case has been lodged by the child victim at the instance of her parents and as a counterblast to an earlier case lodged by the wife of the applicant being FIR No.140/2024 registered under Sections 354/354B/376(D)/452/506/509/34 IPC at P.S. Harsh Vihar where allegations were levelled against the family members of the child victim. He submits that even prior to that, the child victim had lodged another case being FIR No.591/2023 registered under Sections 376/323/506 IPC and Section 6 POCSO Act at P.S. Harsh Vihar against her own father and other family members. He further submits that the family members of the child victim have instigated the child victim to



now lodge the present case against applicant, who was providing tuition to the child victim. It is further stated that in pursuance to the interim protection granted vide order dated 28.05.2024, the applicant has joined investigation and also handed over his mobile phone to the Investigating Officer.

3. Learned APP for the State as well as learned Amicus Curiae, who was appointed to represent the child victim, have opposed the bail application. Learned Amicus Curiae submits that the aforesaid first FIR No.591/2023 lodged by the child victim against her own family members was as a result of instigation by the applicant, who was her tutor and misused the authority as such. He further submits that in the second FIR No.140/2024 lodged by the wife of the applicant against the family members of the child victim, the grandfather namely, *Hari Singh* was arrayed as an accused. The applicant's wife had alleged that *Hari Singh* alongwith other male members had committed the offence under Section 376(D). He submits that an application under Section 91 Cr.P.C. was preferred and during the said proceedings, it was ascertained from the CCTV footage of the house that *Hari Singh* was not present at the spot as he remained confined in the house on that day after 9:30 P.M. onwards whereas the incident alleged to have occurred at 11:30 P.M. He thus submits that the applicant as well as his wife have not only instigated the child victim but also lodged a false FIR against the family members of the child victim. Learned APP for the State submits that during the investigation, statement of the child victim under Section 164 Cr.P.C. has also been recorded and now the chargesheet stands filed.

4. I have learned counsels for the parties as well as learned APP for the State and have also gone through the material placed on record. The case has



a chequered history. The child victim has first alleged offence of rape against her own family members whereafter the applicant's wife has lodged an FIR for similar offences against the family members of the child victim. This is the third FIR in series. In the present FIR registered on 23.02.2024, the child victim has alleged the incident which is stated to have occurred one year prior i.e., on 26.02.2023. It is alleged that the applicant had inappropriately touched the child victim and also exploited her on the basis of some inappropriate photographs of the child victim allegedly taken by the applicant when she had gone to his house on account of a wedding. On a query, learned APP for the State, on instructions from the I.O., submits that from the seized mobile phone of the applicant on a cursory examination, no such photographs were found. The phone, however, has been sent to FSL for further examination. The applicant is stated to have joined the investigation and the chargesheet stands filed.

5. Considering the totality of the facts and circumstances of the case, the interim protection granted to the applicant vide order dated 28.05.2024 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 further 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

AUGUST 7, 2024

na