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

+ **BAIL APPLN. 2726/2023**

ABHIMANYU SHARMA

..... Petitioner

Through: Mr. Ravin Rao, Mr. Shashank
Sharma, Mr. Pallav Gupta, Mr. Akshit
Sawal & Mr. Ayan Sharma,
Advocates.

versus

**THE STATE (GOVT. OF NCT OF DELHI)
AND ANR**

..... Respondents

Through: Mr. Hemant Mehla, APP for the
State with PSI Vishal Kamboj, P.S.
Patel Nagar.
Mr. Vishal Raj Sehijpal, Advocate for
R-2 (through VC).

**CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA**

ORDER
22.03.2024

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1. The present application under Section 439 of the Cr.P.C. seeks regular bail in case FIR No. 269/2023, under Sections 376/313/328/384/509/506/34 of the IPC, registered at P.S. Patel Nagar.
2. The case of the prosecution, as per the FIR registered at the instance of the complainant, is that the applicant had met the complainant alongwith her school friend on 14.08.2021 at Vegas Mall, Dwarka. It is alleged that thereafter, the complainant started talking with the applicant on phone and became friends and they started meeting each other. It is alleged that one



day, the applicant took her to his office in Patel Nagar on the pretext of spending some quality time and there, he made a promise to marry her and established forcible physical relations with her. It is alleged that thereafter, many times the same act was done at his office and at Hotel Ramhan, Patel Nagar, on the pretext of marriage. It is further alleged that during this time, the applicant emotionally blackmailed the complainant and took about Rs. 25 lakhs from her. It is also alleged that he did not let her speak to her friend, who had introduced them to each other. It is the case of the complainant that on 12.05.2021, when she confronted the said friend, she got to know that the present applicant was having an affair with her and talks of marriage were going on between them. It is further alleged that applicant's brother, namely, Prashant Sharma and one co-accused, namely, Dipesh started threatening her.

3. On the basis of the aforesaid complaint, the FIR was registered. After completion of investigation, chargesheet stands filed with respect to the present applicant and the aforesaid co-accused persons.

4. Learned counsel for the applicant submits that the latter has been falsely implicated in the present case. It is the case of the applicant that the relationship between him and the complainant was consensual in nature. It is further submitted that the testimony of the complainant has been recorded before the learned Trial Court, wherein various contradictions have come with regard to the place of incident as well as other issues regarding their first meeting. It is submitted that the case of the applicant is that the money given to the present applicant had been returned on various occasions and the present FIR was registered on account of the fact that the present complainant wanted the entire payment immediately, which could not be



given by the applicant.

5. Attention of this Court has been drawn to MoU dated 06.06.2023 entered into between the complainant and the mother of the applicant, wherein the complainant had entered into a settlement for total amount of Rs. 27 lakhs, as per the schedule mentioned in the said agreement. It is also mentioned in the agreement that after complete payment, the complainant shall extend her support in getting the present FIR quashed before the High Court of Delhi. It is pointed out that the said MoU was confronted to the complainant during her cross-examination wherein she admitted the fact that she had entered into the said agreement and had already received a sum of Rs. 7.5 lakhs.

6. *Per contra*, learned APP for the State, assisted by learned counsel for the complainant, submits that the allegation made by the complainant in the FIR and subsequent statement under Section 164 of the Cr.P.C. as well as testimony before the learned Trial Court have been consistent.

7. Learned counsel for the complainant submits that the agreement, as pointed out by the learned counsel for the applicant, has not been honored by the mother of the applicant and that it was entered only on account of the fact that the money taken by the present applicant should be returned to her. It is further submitted that the mobile phone of the present applicant has been sent to the FSL and a report with regard to the same is still awaited. It is further submitted that one more witness, i.e., friend of the complainant is yet to be examined and in view of the above, the present application is opposed.

8. Heard learned counsel for the parties and perused the record.

9. The case of the complainant was to the effect that the present



applicant had made forcible physical relations with her on pretext of promise of marriage. Further, in her statement before the learned Trial Court, the complainant has stated that when the applicant took her to his office at Patel Nagar, he offered some coffee and after drinking the same, she felt dizzy and thereafter, the applicant had made forcible physical relation with her. The defense of the applicant to the same is that the relationship was consensual. The complainant was confronted with the chats during her cross-examination to which she denied. It has also come in her cross-examination that she admitted to signing of the aforesaid MoU and also admitted to the amount received, i.e, Rs. 7.5 lakhs. The aforesaid matter would be determined by the learned Trial Court after completion of the evidence in the present case. The complainant has been examined. The nominal roll received from the concerned Jail Superintendent reflects that the applicant has been in judicial custody since 13.05.2023. So far as the FSL report is concerned, that would again be a matter of trial.

10. In totality of the facts and circumstances of the case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 50,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave NCT of Delhi without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when



the matter is taken up for hearing.

- iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
11. The application is allowed and disposed of accordingly.
12. Pending application, if any, also stand disposed of.
13. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.
14. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
15. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MARCH 22, 2024/bsr