



2024:DHC:4085



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 20th May, 2024

+ **BAIL APPLN. 2791/2023**

RAJU

..... Applicant

versus

THE STATE OF NCT OF DELHI

..... Respondent

Advocates who appeared in this case:

For the Applicant : Mr. M. K. Khanna & and Mr. Arun,
Advocates.

For the Respondent : Mr. Amol Sinha, ASC for the State
with Mr. Kshitiz Garg, Mr. Ashvini
Kumar, Mr. Deepankar Wadhwa and
Mr. Anshul Saroha, Advocates along
with SI Rajesh Chauhan, P.S. Jaitpur.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 ('CrPC') for grant of regular bail in FIR No. 253/2022 dated 27.04.2022, for offences under Sections 365/34 of the Indian Penal Code, 1860 ('IPC'), registered at Police Station Jait Pur. Chargesheet is filed against the applicant for the offences under Sections 365/364A/323/34 of the IPC.

2. The present FIR was registered on a complaint given by

BAIL APPLN. 2791/2023

Page 1 of 6

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Signing Date: 21.05.2024
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2024:DHC:4085



the mother of the victim. It is alleged that the victim was sitting at his bakery shop on 27.04.2022, when, around 8 PM, the applicant along with his friends abducted the victim and took him to an unknown place.

3. It is the prosecution's case that during the course of the investigation, several phone calls were received on the complainant's phone from the victim's phone. It is alleged that the applicant and his accomplices made a demand of ₹50,000/- on the calls. It is further alleged that the victim could be heard crying for help on the calls. It is alleged that the victim was traced with the help of technical surveillance and was found injured in the captivity of the applicant and the other co-accused persons.

4. It is alleged that the accused persons tried to flee away, however, the applicant and two others were nabbed by the police on the spot.

5. It is also alleged that the car used to abduct the victim was seized at the instance of the accused persons. The bamboo sticks used by the accused persons were also recovered from the said car.

6. The applicant, along with two other accused persons, was arrested on 27.04.2022 itself.

7. The learned counsel for the applicant submitted that the applicant has been falsely implicated in the present case. He submitted that the instant matter is not a case of abduction or an offence committed for ransom.

8. Without prejudice, he submitted that the present case, at

BAIL APPLN. 2791/2023

Page 2 of 6

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15:58:11



2024:DHC:4085



best, is one where the applicant solely meant to take revenge from the victim's brother for brutally thrashing and assaulting his mother. He submitted that FIR No.252/2022 was registered at PS Jait Pur regarding the said incident on the same day as the present FIR.

9. He submitted that the charge for the offence under Section 364A of the IPC has been framed against the applicant on the basis of the alleged call recording of the applicant asking for ransom from the complainant, however, the transcript filed by the Investigating Officer suggests that the demand was made by the victim himself and not the applicant.

10. He submitted that the chargesheet is filed in the present case and no purpose would be served by keeping the applicant in custody.

11. The learned Additional Public Prosecutor for the State opposed the grant of any relief to the applicant. He submitted that the offence alleged to have been committed by the applicant is heinous in nature.

12. He further submitted that the victim is yet to be examined in the present case, and if the applicant is enlarged on bail, there is a possibility that he may try to influence or threaten the victim and his family members.

13. He submitted that the victim in his statement under Section 164 of the CrPC has supported the case of the prosecution.

ANALYSIS

14. It is relevant to note that the charge for the offence under

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BAIL APPLN. 2791/2023

Page 3 of 6



2024:DHC:4085



Section 364A of the IPC has been framed against the applicant in the present case, which has not been challenged by the applicant. The offence under Section 364A of the IPC is punishable with death or imprisonment for life.

15. The contention of the applicant that the victim was abducted for revenge rather than ransom, at this stage, is not beneficial to the applicant as the offence of abduction, even without demand of ransom, is also grave in nature.

16. Specific allegations have been made in regard to the abduction and demand of ransom. The statements of the public witnesses, under Section 161 of the CrPC, categorically point out that the victim was in fact abducted. The allegations made against the applicant, at this stage, do not point out towards the false implication of the applicant.

17. It is also relevant to note that the victim has supported the case of the prosecution and specifically named the applicant in his statement under Section 164 of the CrPC. The evidence of the victim, corroborated by the statement of the public witnesses under Section 161 of the CrPC, has great evidentiary value. *Prima facie*, the involvement of the applicant, in such circumstances, cannot be ruled out at this stage.

18. The complaint was made to the Police by the mother of the victim immediately on the victim being allegedly abducted. The Police had then put the mobile phone of the victim on surveillance and the calls made to the family members of the victim were also recorded.

19. The transcript of the recording has also been placed on *BAIL APPLN. 2791/2023*

Page 4 of 6



2024:DHC:4085



record. *Prima facie*, the same shows that the ransom was demanded. The victim, in his statement under Section 164 of the CrPC, had stated that the accused persons had threatened him that if the demanded money was not arranged, he would be beaten in the manner as shown to him in a video.

20. While the allegations and defences in this regard are a matter of trial, however, this Court cannot lose sight of the vital fact that the applicant was caught red handed by the police officials after the phone of the victim was put on surveillance.

21. It is also pointed out that the victim is yet to be examined, and in such circumstances, the possibility of the applicant influencing the trial or threatening the victim cannot be ruled out.

22. It is true that delay in trial is one of the factors that have to be considered, however, the same alone cannot be a reason to enlarge an accused person on bail [Ref. *State of Kerala v. Raneef*: 2011(1) SCC 784].

23. Therefore, considering the facts of the present case, the gravity of the offence and that the victim is yet to be examined, this Court feels that it is not a fit case for exercise of discretion under Section 439 of CrPC.

24. The application is, therefore, dismissed.

25. It is, however, made clear that any observations made in the present order are only for the purpose of deciding the present bail application, and should not be treated as an opinion on the merits of the case and also should not influence the outcome of the trial.

26. The applicant is given liberty to file the application afresh

BAIL APPLN. 2791/2023

Page 5 of 6



2024:DHC:4085



after the prime witnesses are examined.

27. The applicant is in custody for almost 2 years, therefore, the learned Trial Court is directed to record evidence of the prime witnesses expeditiously.

AMIT MAHAJAN, J

MAY 20, 2024