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

+ **CRL.M.C. 5055/2022**

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.....Petitioner

Through: *Appearance not given.*

versus

THE STATE(GOVT. OF.N.C.T.)OF DELHI & ANR.

.....Respondents

Through: Mr. Shoaib Haider, APP for the State.
Insp. Manjusha, W/PSI Surabhi
Upadhyay, PS Sarita Vihar.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

05.08.2024

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1. The Petitioner has approached this Court challenging the Order dated 23.06.2022 passed by the Ld. ASJ-01, South East, Saket Courts, New Delhi Whereby the Ld. Trial Court has granted bail to Respondent No.2 herein.

2. The facts of the case reveal that the Petitioner herein was married to the younger brother of the Respondent No.2 on 27.04.2021. Disputes arose between the Petitioner and the younger brother of the Respondent No.2 and matrimonial proceedings are pending between them. A complaint was filed by the Petitioner against Respondent No.2 and the grandfather of her husband and on the basis of that complaint, the FIR No.320/2022, dated 13.06.2022 was registered at Police Station Sarita Vihar for offences punishable under Sections 376/354/506/509/34 IPC. Material on record indicates that some sort of settlement was arrived at between the parties and



the Ld. Trial Court vide the Impugned Order dated 23.06.2022 granted bail to the Respondent No.2. The relevant portion of the said Order dated 23.06.2022 reads as under:

“Considering the no objection given by the complainant, huge delay in registration of FIR, the fact that there is a matrimonial dispute between the complainant applicant's and her brother, husband i.e. the settlement arrived between the panchayat and the filing of petition for restitution of conjugal rights, after which the present FIR came to be registered and without going into the merits of the present case, the applicant/accused is admitted to bail on furnishing bail bonds in the sum of Rs.20,000/- with one surety in the like amount to the satisfaction of Ld. CMM/Ld. MM/Duty MM.”

3. The Petitioner has now approached this Court by filing the present petition seeking cancellation of bail granted to Respondent No.2 by contending that the Trial Court has overlooked the fact that the Respondent No.2 is accused of a very serious offence.

4. In Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496, the Apex Court has laid down the parameters for granting or refusing bail to an accused and the same reads as under:

“i. whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

ii. nature and gravity of the accusation;

iii. severity of the punishment in the event of conviction;

iv. Danger of the accused absconding or fleeing, if



released on bail;

v. character, behavior, means, position and standing of the accused;

vi. Likelihood of the offence being repeated;

vii. Reasonable apprehension of the witnesses being influenced; and

viii. Danger, of course, of justice being thwarted by grant of bail.”

5. Though Respondent No.2 is an accused of an offence of rape but this Court cannot ignore the fact that matrimonial disputes are going on between the Petitioner and her husband who is the brother of Respondent No.2. The Respondent No.2 is about 34 years of age and has his own family.

6. It is stated that the chargesheet has been filed and the charges have been framed. It is stated by the learned Counsel for the Petitioner that a protest petition has been filed against the chargesheet that has been filed by the Police and the same is still pending.

7. The Apex Court in a number of judgments has held that once bail is granted, the same should not ordinarily be interfered with unless the Court granting bail has ignored the basic principles of granting bail.

8. As stated earlier, the relationship of the Petitioner with the Respondent No.2 cannot be ignored who is her brother-in-law. It also cannot be ignored at this juncture that allegations of rape has also been made against the grand-father of the husband of the Petitioner and, therefore, the opinion of Trial Court that the possibility of false case being filed by the Petitioner cannot be ignored at this juncture.



9. Be that as it may, the Respondent No.2 has not violated any of the conditions imposed on him till now and therefore, this Court is not inclined to interfere with the Impugned Order granting bail to Respondent No.2.
10. The petition is dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

AUGUST 5, 2024

S. Zakir