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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2370/2024**

RAJ KUMAR MALIK ALIAS RAJ MALIKPetitioner

Through: Mr. Sudhir Tewatia, Mr. Vishal Ms.
Mehual Gulati, Mr. Ankush and Mr.
Prashant Solanki, Advocates.

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Hemant Mehla, APP for State
with SI Kusum, PS: KNK Marg.
Ms. Tanvi Munjal, Mr. Fakhruddin,
Advocates for complainant.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
26.09.2024

1. This anticipatory bail application has been moved in FIR 239/2024 PS K.N. Katju Marg, under Sections 376D/328/506/34 IPC. The said FIR was filed pursuant to a complaint filed by the complainant alleging that the co-accused, brother of the petitioner, Mr. Dilip Kumar Malik had committed sexual assault. As per the FIR, it is stated that the first such incident was on 20th May, 2022 which has allegations against Mr. Dilip. The second incident alleged is of July 2022 which involves the petitioner as well. There are subsequent incidents which have been narrated including of 23rd February, 2024.
2. Counsel for the petitioner points out that basis the photographs which



have been filed along with the petition, it is evident that the complainant was in a consensual relationship with his brother Dilip and has been also involved with the family of Dilip, as also been part of their family travels. He further contends that despite the first incident alleged on 20th May, 2022 no complaint was ever filed by the complainant and after the same she was seen as fully involved and participative with the family of the petitioner. The details of the same have been given as part of the petition.

3. As regards the incident on 23rd February, 2024, petitioner has placed on record details of their alibi, which involves being out of town in Rishikesh as part of the tour and travel services in which he was engaged. The details of the vehicle, DL1VC4325 Urbania Mini Bus on which he was travelling with customers, have also been placed on record. It is further stated that a complaint has already been filed on 18th August, 2023, against the complainant by the wife of his brother Ms. Purnima Malik vide DD No.75/2023 alleging the illicit affair between the complainant and Mr. Dilip Malik.

4. The petitioner has joined the investigation, which is confirmed by APP on instructions of the IO.

5. There are no previous involvements of the petitioner. The main accused which is the brother of petitioner Mr. Dilip Kumar Malik has already been granted bail on 18th July, 2024.

6. As noted above, the allegations are based of 2022 and on subsequent incidents, however, there is no specificity in the said allegations which were levelled in the FIR.

7. Further, as has noted above, it was contended that there was a consensual relationship between the brother Dilip and the complainant.



8. The investigation is almost complete and the charge sheet is about to be filed. In these circumstances, the anticipatory bail petition is allowed.
9. In light of the above, the Court is of the considered opinion that the petitioner is entitled to anticipatory bail. Consequently, in the event of arrest the petitioner be released on bail on furnishing a personal bond in the sum of Rs. 25, 000/- with one surety of the like amount subject to the satisfaction of the arresting officer/IO/SHO concerned, further subject to the condition that the petitioner will join investigation as and when directed and not influence any witness/complainant/victim or tamper with evidence of the case.
10. Even though, complainant stays in the vicinity of the petitioner, the petitioner shall not approach the complainant directly or indirectly in any manner whatsoever or physically venture close to her residence.
11. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
12. Order be uploaded on the website of this Court.

ANISH DAYAL, J

SEPTEMBER 26, 2024/RK