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

+ **BAIL APPLN. 3155/2022 & CRL.M.A. 21611/2022 (Stay)**

UDAY CHAWLA

..... Petitioner

Through: Mr. Abhishek Rai, Mr. Kunal Kohli,
Mr. Kunal Sinha, Mr. Gyanant Singh
& Mr. Sarthak Shanker, Advs.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State
with W/SI Km. Banti, P.S. Vasant
Vihar.
Complainant through VC.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER
20.03.2024

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1. The present application under Section 438 read with Section 482 of the Cr.P.C. seeks anticipatory bail in case FIR no. 219/2022, under Sections 376/506 of the IPC, registered at P.S. Vasant Vihar.
2. The case of the prosecution, as per the FIR registered at the instance of the complainant aged about 38 years, is that the latter was an adopted child of her parents. The complainant was adopted in 1986, when she was 02 years old and her adopted parents took her to the USA in the year 1992. It is alleged that when she had come with her mother to India at her uncle's house, the applicant, who is her cousin, came to her room and while she was watching cartoons, he shut the room and touched her private parts, did fingering and inserted his private part in her private parts and kissed her



passionately. It is alleged that she was threatened to not tell the same to anyone. It is further alleged that in 1997, the applicant came to the USA and stayed with them and repeated the aforesaid act as well as threatened her. It is alleged that the applicant married in 2008 and after her divorce with the said first husband, she married again in 2014. It is further alleged that when she visited India with her second husband on 28.08.2022, they checked into Vasant Continental Hotel and when her husband left back for the USA, the present applicant came to the hotel to see her and thereafter he came to her room and made physical relations with her without her consent. It is alleged that she was again threatened by the applicant that if she discloses the same, he would kill her. It is alleged that she had contracted an infection because of the said physical relations and on 31.08.2022, she checked out of the hotel wherein, the present applicant had received her and dropped her to her parents home.

3. Thereafter the investigation was taken up and the statement of the complainant recorded under Section 164 of the Cr.P.C., wherein she reiterated her allegations.

4. Learned counsel for the applicant submits that the latter is 60 years of age and is presently the Secretary General of Association of Radio Operators and is a chartered accountant by qualification. It is further submitted that he has been falsely implicated in the present case. It is submitted that pursuant to the interim protection granted by the learned predecessor bench of this Court vide order dated 20.10.2022, the applicant joined investigation in the present case, which now stands completed and chargesheet stands filed. It is further submitted that the whatsapp chat between the complainant and the applicant had been handed over to the Investigating Officer, which shows



that the present case is false and concocted. It was also submitted that the said chats of whatsapp and facebook messenger reflect that the complainant was in contact with the present applicant since a long time. It is pointed out that the mobile phones of the applicant as well as the victim were collected and sent to FSL for examination on 20.10.2022. Blood sample of the applicant was also collected on 02.02.2023 and sent to FSL. Reports of the FSL have now been received. Learned counsel for the applicant submits that custodial interrogation of the latter is not required.

5. *Per contra*, learned APP for the State submits that allegations against the latter are serious and he is likely to misuse the benefit of bail. Learned APP for the State, on instructions of the Investigating Officer, submits that FSL report with regard to the mobile phones as well as the blood sample have now been received.

6. The complainant who appears through video conferencing submitted that the allegations made by her in the FIR are true and that the present applicant is guilty of the said allegation. It is submitted that the interim protection of the present applicant should be cancelled and he should be taken into custody forthwith. It is further submitted that the applicant's family members have been threatening and pressuring her to withdraw her complaint. In view of the aforesaid, it is prayed that the present application for anticipatory bail should be dismissed.

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

8. *Vide* order dated 20.10.2022, passed by predecessor bench of this Court, the present applicant was granted interim protection for joining investigation. It is pointed out that the present applicant joined the investigation and handed over his mobile phones for the purpose of the



investigation. Subsequently, chargesheet stands filed in the present case.

9. As per status report dated 04.03.2024, authored by SHO PS Vasant Vihar, with regard to the FSL report, it is recorded as under:

“3. That the FSL result in the present case has been received, sexual assault kit of victim, clothes of victim and blood samples of alleged person were sent to the FSL and as per FSL result no male DNA profile was generated from the source of exhibits of victim.

4. Mobile phone of both the complainant and alleged persons were sent to the FSL for recovery of obscene photos/videos & chats.

5. From the analysis of recovered data it emerged that no obscene photos/videos were recovered from the mobile phone of alleged. Facebook chat between alleged and complainant recovered from 21/08/2022 @ 08:48:15 to 21/08/2022 @ 08:57:02 which appears normal chat. Whats app chats between alleged and complainant recovered from 22/08/2022 @ 07:09:10 to 26/08/2022 @ 10:22:08, which appears to be normal chat.”

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

- i. The applicant shall not leave the country 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 shall join the investigation as and when called by the Investigating Officer concerned.

v. The applicant will not try to influence the witnesses in any manner.

vi. The applicant shall provide his mobile number to the Investigating Officer and intimate about any change.\

11. The application is allowed and disposed of accordingly.

12. Pending applications, if any, also stand disposed of.

13. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.

14. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MARCH 20, 2024/bsr