



\$~

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

+ **BAIL APPLN. 3371/2023 & CRL.M.A. 27134/2023**

PRASHANT DAS GUPTA

..... Petitioner

Through: Mr. Sidharth Aggarwal, Senior Advocate with Mr. Kumar Vaibhav, Mr. Padmesh Mishra, Mr. Vishwajeet Singh Bhati, Mr. Ashish Raghuvanshi, Mohd. Ashaab and Mr. Dhananjay Yadav, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Ms. Richa Dhawan, APP for State with SI Manisha, P.S. Punjabi Bagh.

Mr. Prashant Diwan, Mr. Brajesh Dwivedi, Mr. Mayank Verma and Mr. Sachin Kumar, Advocates for R-2/Prosecutrix.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

22.04.2024

%

1. This application has been preferred on behalf of the applicant Prashant Das Gupta S/o Parveen Das Gupta under Section 439 Cr.P.C. for grant of regular bail in case FIR No. 354/2023 dated 25.07.2023 registered under Sections 376(2)(n)/506 IPC at PS: Punjabi Bagh. Charge sheet has been filed before the Trial Court wherein Section 384 IPC was added.
2. The case of the prosecution is that on 25.07.2023, a complaint was received from the prosecutrix stating that she had come in contact with the applicant in 2019-2020 through Facebook and soon both exchanged their mobile numbers and started talking to each other. However, after one month



the prosecutrix stopped calling the applicant and there was no communication between them until June, 2022, when applicant again contacted her. In July, 2022 applicant called the prosecutrix and asked her to meet him at Club Road, Punjabi Bagh as he lived nearby. Applicant came in his red KIA car and after both were seated in the car, applicant asked the prosecutrix if she wanted to eat something and soon came back with a cold drink, which she drank and started feeling dizzy and fainted. When prosecutrix regained consciousness, she realised that applicant had raped her and made a video capturing the act. He threatened and blackmailed her to viral the video if she informed anyone of the incident and in that fear, prosecutrix neither reported the incident to the police nor informed her husband and family members.

3. It was alleged by the prosecutrix that in/around September, 2022 applicant called her and asked her to get her jewellery and cash under a threat to post her objectionable pictures and the intimate video on the internet as also share the same with her husband. In October, 2022 applicant took the prosecutrix to Saffron Gold Hotel, Bhera Enclave and forced her into physical relations with him. Over the next few months, applicant's demand for money and jewellery increased. It was also alleged that applicant would often snatch the mobile phone of the prosecutrix and send messages to himself, which she later realised were messages indicating consensual relationship between the two, only with a view to create a defence for himself, in case of any complaint.

4. It was stated that in mid-November, 2022 there was a function in the family of the prosecutrix and her in-laws and husband asked her for the jewellery. Prosecutrix asked the applicant to return her jewellery, on which



he got annoyed, hurled abuses and slapped her. On continuous persistence by the prosecutrix to return the jewellery, as there was pressure from her family, applicant gave her fake imitation jewellery, which the prosecutrix gave to her husband, having no other option. However, soon the family discovered that the jewellery was not original and prosecutrix revealed everything to her husband including the incident of rape. Prosecutrix's husband contacted the applicant and demanded the jewellery but applicant threatened him also, whereafter a complaint was lodged by her husband with the police, but no action was taken. Unable to bear the torture and mental harassment, prosecutrix finally lodged a complaint, which led to registration of the present FIR. Prosecutrix also learnt subsequently that applicant was habitual of blackmailing married women and extorting money and jewellery from them under the threat of exposing their intimate photographs and videos.

5. Arguing on behalf of the applicant, Mr. Sidharth Aggarwal, learned Senior Counsel submits that applicant is innocent and has been falsely implicated on a false and fabricated story by the prosecutrix. Applicant was remanded to police custody for three days and has been in judicial custody since 25.08.2023. He is the sole bread earner of the family comprising of his wife, one minor child nearly two years old and aged parents. Incarceration of the applicant compelled his wife to shift to her mother's house with the child, as his parents shifted to a small rented accommodation at a rent of Rs.1,000/- per month. The family is finding it difficult to make both ends meet.

6. It is urged that the factual situation is materially different from the one portrayed by the prosecutrix or on behalf of the State. The truth and reality is



that in December 2016, family of the prosecutrix visited the house of the applicant with a marriage proposal, but at that time applicant was living in a small house with his parents and the proposal did not materialise on this score. Prosecutrix got married to some other person on 23.04.2017 and there was no communication between her and the applicant for some time. However, prosecutrix again approached the applicant in and around July, 2018 and confided in the applicant that she was unhappy in her married life and did not receive the same love, affection and care, which she had got from the applicant. Thereafter both started meeting frequently and had consensual physical relationships. WhatsApp chats exchanged between the two, screenshots of which have been filed, will substantiate that this was a consensual relationship and ingredients of the offence of rape are not made out. Prosecutrix was happy in this relationship, till her husband learnt of the same and to save herself, she falsely implicated the applicant, alleging rape by him first in the car in July, 2022 and thereafter in a hotel as also demand of jewellery and cash, which was wholly untrue and an afterthought.

7. It is contended that there is considerable delay in lodging the FIR. The alleged incident of rape in KIA car is of July, 2022 and the next alleged incident is of October, 2022, but the FIR was registered on 25.07.2023. This is also evidence of the fact that the allegations are false, fabricated and an afterthought. Allegation relating to the incident at Saffron Gold Hotel, is completely bereft of specifics, since neither the date nor time of the incident has been mentioned and a bare perusal of the FIR reveals that there is an unsuccessful attempt to make out the ingredients of offence of rape on vague and omnibus allegations. Significantly and cautiously, there is no allegation of rape on false promise to marry.



8. It is argued that two elements have been introduced in the FIR to falsely incriminate the applicant. The first pertains to administering an intoxicated cold drink to the prosecutrix in the car, raping her and recording the intimate video and the alleged incidents date back to July, 2022. This element is introduced with the objective of getting away with the legal bar of consent and to bring in the component of sexual coercion. The second element is of taking jewellery and cash under threat of releasing the intimate video. WhatsApp chats, however, reveal a different picture and bear testimony to the fact that prosecutrix was willingly and happily in a consensual relationship with the applicant well before July, 2022. In this context, learned Senior counsel took the Court extensively through the screenshots of the WhatsApp chats and highlighted not only the dates of the messages, which go back to the year 2021, but also the contents thereof. Conversation includes “*happy birthday*” and “*good night*” messages with prefixes such as *shonu/shonna*, *babbu*, *love*, *wify*, *missing you*, discussions on time and venues of meetings, planning their baby, buying a *mangalsutra*, etc.

9. Mr. Agarwal further argues that the allegation of rape in July, 2022 is completely false and stand of applicant is fortified by the fact that the KIA car in which the rape allegedly happened, had met with a major accident on 30.05.2022 and was badly damaged. The car was under repair with the workshop from 31.05.2022 to 29.08.2022 and since it was a major accident, NCR No.26/2022 dated 30.05.2022 was registered at PS: Keshav Puram, which is a verifiable fact, being a matter of police record. Service Bill issued by the workshop for an amount of Rs.2,49,943/- has also been placed on record for perusal of this Court and will be proved during trial.



10. It is further contended that the allegation with respect to the demand of jewellery and cash under the threat of releasing the intimate video also does not hold water as there exists no such video and despite seizure of the mobile phone of the applicant during investigation, no such video was recovered. Moreover, once the prosecutrix was in a consensual relationship over a long period of time, with no force or coercion on the prosecutrix to continue the relationship, applicant had no reason or necessity to make any such video. Prosecution has erroneously linked the allegations of jewellery to one text message received on the mobile phone of the applicant from Muthoot Finance and on this sole basis, concluded that applicant mortgaged the jewellery of the prosecutrix. Applicant has filed along with the present application receipts of gold loan accounts taken by him from Muthoot Finance pledging the jewellery of his wife, which along with the photographs of the jewellery reveal that these loan accounts have no connection with the jewellery of the prosecutrix. Further, all four loan accounts pertain to July, 2022, whereas going by the allegation, applicant had asked for the jewellery from the prosecutrix in September, 2022. Interestingly, while the allegations in the FIR do state that applicant had asked for jewellery but there is no date(s) when the prosecutrix handed over the same to the applicant. In fact, WhatsApp chats indicate that it was the prosecutrix, who was asking the applicant for a *Mangalsutra* on one occasion and a necklace set on the other. There are messages which show that she was forwarding designs and details of jewellers and asking the applicant to pay for the jewellery. WhatsApp chats further indicate that prosecutrix was unhappy in her married life and the applicant and prosecutrix not only had consensual physical relations but shared emotional



space and relied on each other for emotional support.

11. It is further contended that much has been said in the Status Report about the four cases pending against the applicant to oppose the bail, overlooking that the case emanating from FIR No.383/2011 was quashed by this Court vide order dated 16.10.2019 in CrI. M.C. No.5270/2019, while in case FIR No.111/2013, applicant has been acquitted by the Trial Court vide order dated 06.01.2015. In case FIR No.79/2013, applicant was not an accused and only FIR No.68/2021 is pending, in which bail was granted by the Trial Court vide order dated 18.01.2022. Moreover, it is a settled law that the mere pendency of other criminal cases against the accused cannot be a sole factor for refusal of the prayer for bail. In this context, reliance is placed on the judgment of the Supreme Court in ***Prabhakar Tewari v. State of Uttar Pradesh and Another, (2020) 11 SCC 648.***

12. Lastly, it is urged that no incriminating material has been recovered from the applicant or from his house or at his instance. The only material available is the statement of the prosecutrix, which is clearly contrary to the other material on record in the form of WhatsApp chats and other documents. There are serious infirmities, flaws and discrepancies in the prosecution case, which point to the innocence of the applicant. Paramount considerations for grant of bail are the likelihood of the applicant fleeing from justice or tampering with evidence or influencing witnesses which do not exist in the present case and applicant undertakes not to contact the prosecutrix or her family members, in any manner whatsoever and shall abide by any other condition, that this Court may impose. It is not the case of the State that applicant is a flight risk or has done any act directly or indirectly to influence the witnesses during investigation. Investigation is



complete and Charge Sheet has been filed. Allegations of extortion are completely false and frivolous as there is no dishonest inducement and in any case the offence is punishable with imprisonment for a term, which may extend to 3 years and therefore, going by the judgment of the Supreme Court in ***Arnesh Kumar v. State of Bihar and Another, (2014) 8 SCC 273***, applicant is entitled to be enlarged on bail.

13. Learned senior counsel relies on the following judgments:-

- (a) ***Arun v. State GNCT of Delhi, 2021 SCC OnLine Del 2403*** and ***Nikhil Jain v. State, 2021 SCC OnLine Del 3019***: Infirmities and contradictions in the story of the prosecutrix constitute a ground for bail.
- (b) ***Rishabh Rawat v. State Govt. of NCT of Delhi, 2023 SCC OnLine Del 13368***; ***Afran Amjad v. State of Kerala, 2023 SCC OnLine Ker 1871*** and ***Delish S. v. State of Kerala, 2023 SCC OnLine Ker 30***: Regular bail/anticipatory bail granted on *prima facie* view taken by the Courts based on WhatsApp chats.
- (c) ***Prabhakar Tewari (supra)*** and ***Mumtaz v. State (NCT of Delhi) & Another, 2022 SCC OnLine Del 4617***: Mere pendency of other criminal cases cannot be the only ground to deny bail.
- (d) ***Rajuwa v. State, 1992 SCC OnLine All 273*** and ***Sewa Ram and Others v. State, 1992 SCC OnLine All 858***: Accused can rely on infirmities in the case of prosecution, at the stage of bail.
- (e) ***Mohd. Moiz v. State, 2016 SCC OnLine Del 5913***; ***Prashant Bharti v. State (NCT of Delhi), (2013) 9 SCC 293*** and ***Ashu Gautam v. State and Another, 2022 SCC OnLine Del 4428***: Bails granted in similar factual situations.



14. *Per contra*, learned APP for State and counsel for the prosecutrix strenuously opposed the bail application on the ground that the allegations are grave and serious in nature. Applicant initially raped the prosecutrix by intoxicating her and thereafter repeatedly raped her under the threat of exposing the intimate video, recorded while indulging in the heinous crime, taking advantage of the fact that the prosecutrix had fainted due to intoxication. Applicant regularly threatened the prosecutrix to post the objectionable video on social media platforms as also send the same to her husband. Extending threats of sending the video recording to her husband, applicant also coerced the prosecutrix to handover her gold jewellery as also cash, from time to time. On her demand to return the jewellery back, as her family was consistently pressuring for the same, applicant procured and gave fake jewellery to her and pledged the original jewellery with Muthoot Finance for taking loans and enjoyed the borrowed money. Entire family of the prosecutrix is under threat and traumatised and her matrimonial life is on the verge of breaking.

15. It is further submitted that applicant is a habitual offender and involved in multiple incidents of exhorting and blackmailing women. His *modus operandi* is to target married women, develop intimate relationship with them and then use the objectionable material to threaten and demand gold jewellery and cash. Four FIRs other than the present one have been registered against the applicant and on account of the criminal antecedents and the gravity of the offences, applicant does not deserve to be enlarged on bail. It is submitted that there are chances of the applicant threatening the witnesses, if enlarged on bail as the case before the Trial Court is at the initial stages and charges are yet to be framed and the material witnesses



including the prosecutrix, are yet to be examined.

16. It is argued that during the course of investigation, statement of the prosecutrix was recorded under 164 Cr.P.C., wherein she corroborated her previous version. In response to notice under Section 91 Cr.P.C., prosecutrix produced WhatsApp chats, photographs and bills of the jewellery including the duplicate jewellery, allegedly given to her by the applicant. Bills have been verified and it is found that the duplicate jewellery was customised through a company Thiya. CDRs of mobile numbers of the prosecutrix and the applicant were obtained and analysed during further investigation and both were found to be connected through the phones. Investigation into a message received on the mobile phone of the applicant from Muthoot Finance was also conducted which revealed that he had taken a loan and the jewellery pledged included the jewellery seen in the photographs submitted by the prosecutrix. Mobile phone of the prosecutrix and three phones of the applicant were sent for forensic examination and the FSL report is awaited.

17. Heard learned Senior counsel for the applicant and learned APP for State as well as learned counsel for prosecutrix.

18. There is no doubt that the allegations against the applicant are serious. The Supreme Court has from time to time observed that gravity or seriousness of the allegations may not always be a singular factor to deny bail to an accused. In ***Mahipal v. Rajesh Kumar alias Polia and Another, (2020) 2 SCC 118***, the Supreme Court held that determination of whether a case is fit for grant of bail, involves balancing of numerous factors and the relevant passage is as follows:-

“12. The determination of whether a case is fit for the grant of bail involves the balancing of numerous factors, among which the nature of the offence, the severity of the punishment and a prima facie view of the



involvement of the accused are important. No straitjacket formula exists for courts to assess an application for the grant or rejection of bail. At the stage of assessing whether a case is fit for the grant of bail, the court is not required to enter into a detailed analysis of the evidence on record to establish beyond reasonable doubt the commission of the crime by the accused. That is a matter for trial. However, the Court is required to examine whether there is a prima facie or reasonable ground to believe that the accused had committed the offence and on a balance of the considerations involved, the continued custody of the accused subserves the purpose of the criminal justice system. Where bail has been granted by a lower court, an appellate court must be slow to interfere and ought to be guided by the principles set out for the exercise of the power to set aside bail.”

19. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan alias Pappu Yadav and Another, (2004) 7 SCC 528***, the parameters required to be taken into consideration while deciding a bail application were reiterated and re-stated by the Supreme Court as follows:-

“11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge. (See Ram Govind Upadhyay v. Sudarshan Singh [(2002) 3 SCC 598 : 2002 SCC (Cri) 688] and Puran v. Rambilas [(2001) 6 SCC 338 : 2001 SCC (Cri) 1124] .)”

20. Keeping the aforesaid principles in mind, this Court has gone through the allegations in the FIR, the charge sheet, MLC and other documents on



record for the limited purpose of deciding this bail application. Both the applicant and the prosecutrix are nearly 32 years of age. It appears that applicant and the prosecutrix have known each other since the year 2016, when family of the prosecutrix had visited the house of the applicant with a marriage proposal, which did not fructify for some reason. Both are married and there is no allegation of rape on false promise to marry in the FIR.

21. Counsel for the prosecutrix did not dispute that applicant and prosecutrix knew each other before July, 2022 as this fact is mentioned in the FIR itself. Applicant has placed on record screenshots of WhatsApp chats exchanged between him and the prosecutrix running into over 100 pages, which *prima facie* reflect that the relationship between them was consensual and the messages on record, date back to 10.09.2021. Prosecutrix was not only incessantly sending WhatsApp messages to the applicant but was also responding to his messages, promptly and happily. The messages include exchange of birthday greetings, fixing time and venues of meetings, discussion about their physical and intimate relationships, including a desire to have their own child. Words such as ‘babu’, ‘shonu’, ‘shona’, ‘wify’, ‘pati’ have been frequently used by both, in different contexts. There is a demand from the prosecutrix in one of the messages for a *mangalsutra* for daily wear. Messages reveal the desperation and eagerness on both sides to meet each other as also an expression of happiness and gratitude that they both entered into this beautiful relationship. Several messages have sexual overtones, which are not being referred to for the sake of confidentiality. Significantly, the messages are of a period prior to July, 2022, when the alleged rape took place, as well as post thereto i.e. upto January, 2023. There is no clarity in the stand of the prosecutrix with respect to the WhatsApp



chats. There are varied stands on this aspect: screenshots placed on record are fabricated; chats are incomplete/edited; or that messages were sent by the applicant himself from prosecutrix's phone as he often took away her phone, but what is not denied is that most of these WhatsApp messages were exchanged between the two.

22. It is a matter of record that the FIR was registered on 25.07.2023 *albeit* according to the prosecutrix, applicant had allegedly raped her in his car in July, 2022. Nothing has been placed on record which even remotely indicates the reason for lodging the complaint after a considerable period of approximately one year, save and except, that applicant was threatening the prosecutrix not to disclose anything to anyone, failing which he would leak the intimate video on social media platforms as also expose her in front of her husband. Till date no video has been recovered from the applicant, despite his phone having been seized during investigation. The WhatsApp messages *prima facie* do not support the plea of the prosecutrix that she was under any kind of threat or was being coerced into a relationship with the applicant and instead point to a long term consensual relationship.

23. There are material contradictions in the statements given by the prosecutrix under Section 161 Cr.P.C. on different dates as well as in the FIR and the MLC with respect to the month, in which the alleged incident of rape first occurred. In the FIR and MLC, the version is that applicant allegedly raped the prosecutrix in July, 2022, soon after the applicant and prosecutrix resumed their communications in June, 2022. However, in the second statement under Section 161 Cr.P.C., prosecutrix states that she had mentioned the wrong month earlier as the incident of rape was in January-February, 2022. This was perhaps an afterthought, as urged on behalf of the



applicant, once the prosecutrix realised that the KIA car had met with a major accident and was in the workshop for repairs between 31.05.2022 to 29.08.2022. Applicant has placed on record the NCR registered on 30.05.2022 as well as the invoices for the expenditure incurred on repairs, which will be tested during trial.

24. Insofar as the jewellery is concerned, the stand of the State and the prosecutrix is that after the family of the prosecutrix learnt that the original jewellery had been given by her to the applicant, she demanded her jewellery back from the applicant and he ordered for a duplicate jewellery, which was ultimately manufactured by 'Thiya'. Applicant, on the other hand, referred to the WhatsApp chats between September, 2022 to November, 2022, to contend that the prosecutrix wanted to buy jewellery and was finalising the designs with the jeweller while the applicant was finalising the payments and that she was the one, who had forwarded the details of Thiya to the applicant for reference. There was also a demand for a *mangalsutra* by the prosecutrix. No doubt that the WhatsApp chats, the genuineness or the pledge or the photographs of the jewellery including the status of the repair of the car etc. would be a matter of trial, but at this stage the Court cannot completely shut its eyes to the material on record, which does tilt the scales in favour of the applicant for grant of bail.

25. The judgment of this Court in ***Mohd. Moiz (supra)*** is close to the facts of this case wherein the applicant had sought regular bail in case where FIR was registered under Sections 376/506/328 IPC and charge sheet had been filed. The allegations were that the applicant had raped the prosecutrix by putting some substance in her drink on account of which she had become drowsy and unconscious. Applicant was stated to have promised to marry



the prosecutrix. WhatsApp chats between the parties were relied upon by either side to argue their respective cases. Coming to a *prima facie* conclusion that the WhatsApp communication showed that the applicant and the prosecutrix were in a relationship and the rest of the issues were a matter of trial, the Court admitted the applicant to bail and it would be useful to allude to the following observations:-

“6. A status report has been filed by the State. It is stated that during investigation, the complainant has provided snapshots of whatsapp messages/conversations which took place between her and accused earlier. On perusal of the conversation, it is found that both were good friends and used to work in the same company. The FSL report regarding examination of the whatsapp conversation found on the mobile instrument of the accused is awaited.

xxx

xxx

xxx

8. Having heard learned counsel for the petitioner, perused the record, heard learned APP as well as the prosecutrix and her counsel, I am of the view that no useful purpose would be served in keeping the petitioner in judicial custody during the pendency of the trial in the facts of the present case and he should be released on regular bail. It would need examination whether the prosecution has indeed come out with a fuller and truthful disclosure in the FIR in question after making the initial FIR No. 618/2016 on 12.08.2016 wherein allegations against the petitioner only relate to hurling of abuses in a filthy manner and of issuance of treat to kill the prosecutrix. It would need examination whether the prosecutrix did not make allegations of rape against the petitioner in the first complaint dated 12.08.2016 on the asking of the petitioner. The complainant/prosecutrix has refused medical examination. The status report discloses and even the whatsapp communication exchanged between the prosecutrix and the petitioner, prima facie, show that that the petitioner and the prosecutrix were in a relationship. Whether or not they established a physical relationship; whether the same was consensual or not; whether the petitioner has committed rape upon the prosecutrix after administering some drug or alcohol upon the prosecutrix or by making her false promise of marriage, are issues which would be examined by the trial court at the trial of the case. At this stage, since the investigation is complete and charge-sheet stands filed, no purpose would be achieved in detaining the petitioner in custody any longer during the pendency of the trial.”

26. In somewhat similar facts, where material on record indicated



consensual physical relationships between the accused and the prosecutrix, this Court in *Ashu Gautam (supra)* and the High Court of Bombay in *Mr. Pintukumar S. Singh v. The State of Maharashtra, 2016 SCC OnLine Bom 12589*, granted regular bail. I may also refer to the decisions in *Arun (supra)* and *Rishabh Rawat (supra)* in this context.

27. Learned APP for the State has highlighted that the applicant has pledged the jewellery of the prosecutrix, which he extorted under the threat of leaking the intimate video and this is evident from a message received on the phone of the applicant from the said financiers. Applicant on the other hand refuted the position by stating that he had taken 4 loans prior to the alleged extortion by pledging his wife's jewellery. Some photographs have been placed on record by the prosecutrix to show that part of the jewellery pledged by the applicant belongs to her. In my view, this would also be a matter of trial.

28. Insofar as the apprehension of the State and the prosecutrix that the applicant may threaten or intimidate the prosecutrix is concerned, the same can be taken care of by imposing the condition that the applicant shall not come in contact with the prosecutrix and/or any of her family members till the material witnesses are examined. It is not the case of the prosecution that the Applicant is a flight risk. As far as the antecedents of the Applicant are concerned, it was clarified during the course of hearing on behalf of the applicant that FIR No. 383/2011 was quashed by this Court on 16.10.2019 while in FIR No. 111/2013, he has been acquitted by the Trial Court. In FIR 79/2013, Applicant is not an accused and the only FIR pending against him is 68/2021, in which he is on bail granted by the Trial Court on 18.01.2022. In any event as observed by the Supreme Court in *Prabhakar Tewari*



(*supra*) pendency of another FIR will not be taken as singular factor by this Court in rejecting the present bail application, if the Applicant is otherwise entitled to be enlarged on bail. The same view was taken by the Co-ordinate Bench of this Court in *Mumtaz (supra)*, applying the observations of the Supreme Court in *Prabhakar Tewari (supra)*. Applicant is in judicial custody since 25.08.2023. Till date even charges have not been framed and the trial is not likely to conclude soon.

29. In view of the aforesaid facts and circumstances, in my view, applicant has made out a case for grant of bail. Consequently, applicant is directed to be released on bail, subject to furnishing a personal bond in the sum of Rs. 50,000/- with two sureties of the like amount to the satisfaction of the learned Trial Court and further subject to the following conditions:

- (1) Applicant will not leave the country without prior permission of the Trial Court;
- (2) He shall furnish his permanent residential address to the IO and shall intimate the Court by way of an affidavit and the IO regarding any change in the residential address;
- (3) He shall provide his mobile number to the IO concerned and keep the same active at all times and the mobile number shall not be changed without prior intimation to the IO;
- (4) He shall appear before the Trial Court, as and when the matter is taken up for hearing;
- (5) He shall not indulge in any criminal activity and contact the prosecutrix and/or her family members in any manner whatsoever and/or any prosecution witness or extend any threat/intimidation during the pendency of the trial; and



- (6) He shall report to the IO at PS: Punjabi Bagh once in two months, with advance intimation to the IO of the date and time.
30. In case of violation of any of the above conditions, it would be open to the prosecutrix and the State to approach the Court for cancellation of the bail.
31. Needless to state, any observation touching the merits of the case is *prima facie* and only for the purpose of deciding the present application and shall not be construed as an expression on merits of the case.
32. Application is allowed and stands disposed of. Pending application also stands disposed of.
33. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

JYOTI SINGH, J

APRIL 22, 2024
B.S. Rohella