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

+ **BAIL APPLN. 3684/2023**

ARIF

.....Applicant

Through: Mr.Mittham Lal, Mr.Vipin
Gupta and Mr.Mohit Dhama,
Adv.

versus

THE STATE & ANR.

..... Respondents

Through: Ms.Priyanka Dalal, APP with
SI Sunita
Mr.Bhuwan Jayant, Ms.Reena
Gupta and Ms.Prachi Goel,
Adv. for R-2 (through VC)

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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22.01.2024

1. This application has been filed under Section 438 of the Code of Criminal Procedure (in short, 'CrPC'), praying for anticipatory bail in FIR No. 0463/2023 registered at Police Station: New Usmanpur, North-East, Delhi under Sections 354/354(B)/341/452/376/323/34 of the Indian Penal Code, 1860 (in short, 'IPC').

2. It is the case of the prosecution that, on a complaint received from the Complainant, the above FIR was registered on 14.06.2023 at 18:10 hours. The Complainant, in her complaint, had stated that she is staying with her daughter and son-in-law. She stated that the accused persons are trying to pressurise them into selling their house and on their refusal, put pressure on them on one way or the other. It is further stated that, on 13.06.2023, her son-in-law had gone to Meerut



for some work. Her daughter left for the grocery store to get some items. On her way, she was accosted by the accused persons who tore her clothes and they also pressed her chest. The Complainant states that her daughter pushed the accused persons and ran towards the house. The co-accused followed her and forcefully entered the house in spite of her objection. They also tore the clothes of her daughter, pressed her chest and disrobed the pants of her daughter and tried to rape her. The tenants of the Complainant intervened and with their intervention, the Complainant and her daughter escaped. They also called the police at 112 number to give information of the incident.

3. The learned counsel for the applicant submits that the present FIR is only a counter-blast of the complaint filed by the wife of the applicant of a sexual assault on their daughter by the husband of the Victim in the present FIR, on 13.06.2023 at 8.30 PM. On the said complaint, FIR No. 0462/2023 under Sections 376/323 of the IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (in short, 'POCSO') has been registered at New Usmanpur, North-East, Delhi against the accused. The accused is absconding and the proceedings under Section 82 of the CrPC had been initiated, subsequent to which he has been declared a Proclaimed Offender. He submits that the applicant has made complaint with the DCP, North-East, Delhi complaining that he has been falsely implicated in the case. He further submits that the husband of the Victim has also filed a complaint against the brother of the applicant, who is a lawyer with the Bar Council of Delhi wherein he did not make any reference to the alleged incident on the basis of which the FIR in question has been



registered.

4. On the other hand, the learned APP for the State submits that the accusations against the applicant are grave in nature and he should not be granted anticipatory bail in the same.

5. The learned counsel for the Victim has also made submissions. He reiterates that the incident had taken place on 13.06.2023 at around 12.30 PM and a PCR call for the same was made. The police, instead of registering the complaint, tried to pacify the parties, advising them to arrive at a settlement. It is only when the applicant filed a false complaint invoking the POCSO Act that the complaint of the Victim was also recorded in form of the present FIR.

6. The learned APP for the State strongly refutes the above assertion of the learned counsel for the Victim. She submits that the PCR call was received at 12.56 PM on 13.06.2023, reporting only about a fight taking place at the spot. The same was investigated and no further action was taken on the same and no complaint of the incidents which are now alleged was made. The complaint regarding the alleged incident, on the basis of which the present FIR has been registered, was received only on the next day at 18:10 hours.

7. I have considered the submissions made.

8. In the present case, the Victim's husband is stated to be an advocate. *Prima facie*, it does not appear to logic that if such a heinous crime had been committed, he would take a full day to make a complaint regarding the same, and even if his version that the police officials refused to register the FIR is to be believed, not make a complaint in this regard to the superior officials.



9. It is further relevant to note that he presently is absconding and has been declared as a Proclaimed Offender.

10. Keeping in view the nature of the allegations made, *prima facie*, I find some merit in the submission made by the learned counsel for the applicant that the same are a counter-blast to the complaint filed by the applicant.

11. In light of the above, and keeping in view the principles enunciated by the Supreme Court in ***Siddharam Satlingappa Mhetre v. State of Maharashtra & Ors.***, (2011) 1 SCC 694, the Court is of the considered opinion that the applicant is entitled to anticipatory bail.

12. Consequently, in the event of arrest in FIR No. 0463/2023 registered at Police Station: New Usmanpur, the applicant shall be released on bail subject to furnishing a personal bond in the sum of Rs.25,000/- with one local surety of the like amount to the satisfaction of the IO/Arresting Officer/SHO concerned, and further subject to the following conditions:

- (i) that the applicant will join investigation as and when directed, in writing;
- (ii) that the applicant shall not leave National Capital Territory of Delhi without intimating the IO/SHO concerned;
- (iii) that the applicant shall not, directly or indirectly, try to contact/influence the complainant/victim or any other witness(s) or tamper with evidence of the case; and,
- (iv) that the applicant shall furnish his mobile phone/landline number and residential address to the



IO/SHO concerned and shall keep his mobile/landline phones operational at all times during this period, and in the event of any change of the same, will immediately inform the same to the IO/SHO.

13. The Application is disposed of in the above terms.

NAVIN CHAWLA, J

JANUARY 22, 2024/ns

Click here to check corrigendum, if any