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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ BAIL APPLN. 3728/2023 & CRL.M.A. 3617/2024
RAJENDER SINGH VANI @ RAJU Petitioner
Through: Appearance not given.

versus

STATE OF NCT OF DELHI & ANR. Respondents
Through: Mr. Raghuvinder Verma, APP for
State with SI Baljeet Kaur, PS.
Burari.
Mr. Ram Anugrah Pandey, Adv. for
complainant.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER
20.03.2024

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1. The present petition has been filed under Section 439 CrPC read with Section 482 CrPC seeking regular bail in connection with FIR No.1181/2023 under Sections 323/452/376 IPC registered at Police Station Burari.
2. The FIR was registered on a complaint made by the prosecutrix alleging that on 30.09.2023 at 05:00 am, the accused entered into her house by breaking the window and took away the mobile of the complainant. It was also alleged that he forcefully made physical relations with the complainant after her children went to school and when the complainant refused, he slapped her 4-5 times on her face. Later on, after forcing himself upon her, he gave her phone back.
3. The learned counsel for the petitioner submits that the petitioner is



related to the prosecutrix, in as much as, the wife of the petitioner is first cousin (*mama's* daughter) of the prosecutrix. He further submits that the relationship between the petitioner and the prosecutrix was consensual in nature.

4. Elaborating on his contention, he submits that the broken window has not been seized, nor photographs of the same have been placed on record to substantiate that the entry of the petitioner in the house of the prosecutrix was forcible.

5. He submits that there is also a delay in registration of FIR, in as much as, the incident is of 30.09.2023 during the morning hours, whereas the FIR came to be registered on 01.10.2023 at around 10:00 a.m.

6. Inviting attention of the Court to the testimony of the prosecutrix, who was examined as PW-1, he submits that there are also material contradictions in the testimony of the prosecutrix/PW-1 *vis-a-vis* her statement recorded under Section 161 CrPC.

7. He submits that the petitioner is in custody since 01.10.2023 and he is no more required for further investigation.

8. It is also contended that the petitioner has three minor children, one of them is suffering from Dismencia Factor-7 disease, for which an injection is to be administered to him on a monthly basis, the cost of which is Rs.45,000/- approximately and the petitioner is the only earning member of the family. He further submits that the petitioner has clean antecedents.

9. In the backdrop of the aforesaid facts and circumstances, he urges the Court to enlarge the petitioner on bail.

10. *Per contra*, the learned APP for the State has argued on the lines of the Status Report.



11. I have heard the learned counsel for the petitioner, learned counsel for the complainant and the learned APP for the State and have perused the record.

12. It is the case of the prosecution itself that the present petitioner is related to the prosecutrix and they were known to each other since long. Nothing has been pointed out to show that the petitioner entered into the house of the prosecutrix by breaking the window. Thus, *prima facie*, there appears to be substance in the contention of the learned counsel for the petitioner that the entry of the petitioner in the house of the prosecutrix on the date of alleged incident i.e., 30.09.2023 was not forcible. Therefore, at this stage, it cannot be completely ruled out that the relationship between the petitioner and the prosecutrix were consensual in nature.

13. The petitioner is in custody since 01.10.2023 and he is no more required for further investigation. That apart there is peculiar feature of this case that the petitioner's son is stated to be suffering from Dismencia Factor-7 disease for which he needs to be administered injection on a monthly basis, the cost of which is stated to be Rs.45,000/- approximately and the petitioner is the only earning member of the family.

14. On a query posed by the Court, the learned APP on instructions, fairly states that the petitioner has clean antecedents.

15. It is also not the case of the prosecution that the petitioner is a flight risk.

16. Considering the aforesaid circumstances in entirety, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is enlarged on bail subject to his furnishing a Personal Bond in the sum of Rs. 25,000/- and one Surety Bond of the like



amount to the satisfaction of the Trial Court/CMM/Duty Magistrate, further subject to the following conditions:-

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
 - b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
 - c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.
17. The petition stands disposed of.
 18. It is made clear that nothing stated above is to be construed as an expression of opinion on the merits of the case.
 19. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.
 20. Order *dasti* under signatures of the Court Master.
 21. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

MARCH 20, 2024/dss