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

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+ **BAIL APPLN. 3604/2022**

MR. FAIZAN ABBAS

..... Petitioner

Through: **Mr. M. Hasibuddin, Advocate.**

versus

THE STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: **Ms. Richa Dhawan, APP for State
with SI Sunita, PS: New Usman Pur.**

**Mr. Shiv Chopra, Ms. Aadhyaa Khanna and
Mr. Siddharth Arora, Advocates for Complainant.**

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+ **CRL.M.C. 6887/2023**

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..... Petitioner

Through: **Mr. Jibran, Advocate**

versus

STATE AND ORS

..... Respondents

Through: **Ms. Richa Dhawan, APP for State
with SI Sunita, PS: New Usman Pur.**

Mr. M. Hasibuddin, Advocate for R-3.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

13.02.2024

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BAIL APPLN. 3604/2022

1. This is an application preferred on behalf of the Applicant Faizan Abbas S/o Mr. Sakhawat Hussain under Section 438 Cr.P.C. seeking anticipatory bail in respect of FIR No. 987/2022 dated 25.11.2022 under Sections 376/328/506 IPC, registered at PS: New Usmanpur.



2. On 06.12.2022, this Court had granted interim protection to the Applicant subject to his joining investigation as and when summoned by the Investigating Officer and co-operating in the same. The interim order has continued till date. As per the prosecution case, the victim made a complaint against the Applicant alleging that she met the Applicant in one of the wedding events that she had organised as his friend lives in the same locality as the prosecutrix and eventually, they became friends. In November, 2018, Applicant offered her dinner followed by a cold drink. After drinking, prosecutrix had a hangover and when she woke up, she was not in a good state. Applicant came to her house and showed her videos and photos in his phone and threatened that he will viral the same. In February, 2021, marriage between the prosecutrix and her husband was dissolved and the Applicant started approaching her again. On a false pretext of marriage, he made physical relations with her a number of times. Prosecutrix became pregnant but the Applicant was unhappy on hearing this news and forced her to abort the foetus. Later, the Applicant married another girl and having no option the prosecutrix lodged the complaint culminating into the present FIR.

3. Learned counsel for the Applicant states that the allegations against the Applicant are false and an afterthought. It is unbelievable that the prosecutrix who is a mother of two children and a professional woman organizing wedding events would remain silent from 2018 till 2022, if the Applicant was actually indulging in the alleged acts. Being a divorcee, it is the prosecutrix who wanted to marry the Applicant but once she realised that he had married and settled, she filed the present complaint as a counter blast and to harass the Applicant. Prosecutrix is a grown up and mature lady who



understands the nature of the relationship and moreover, the FIR does not indicate any date or time when the alleged acts took place. In ***Vikul Bakshi v. State of NCT Delhi, 2016 (1) JCC 54***, it has been held that an unexplained delay in lodging the complaint entitles the Applicant for anticipatory bail and the veracity of the claim of a promise to marry the complainant is a question which can be adjudicated only during trial.

4. Learned counsel for the prosecutrix opposes the grant of bail on the ground that threats are being extended to the prosecutrix and therefore it cannot be said that the triple test for grant of anticipatory bail is satisfied. She submits that complaints were made to the Police that on 04.06.2023, two unknown person riding on a motorcycle had stopped her and not only used abusive language but also threatened her to withdraw the case against the Applicant. Additionally, one of the relatives of the Applicant namely, Sajid lives in the locality of the prosecutrix and with the CCTV camera installed in his house, he monitors the movements of the prosecutrix and informs the Applicant. It is submitted that separately a petition has been filed for cancellation of the interim protection granted to the Applicant by this Court.

5. Learned APP does not dispute the fact that Charge Sheet has been filed and investigation is complete and that the Applicant is joining investigation and co-operating. Insofar as the allegations of threat by the prosecutrix are concerned, it is stated that the prosecutrix had informed about the incident dated 04.06.2023 only on 19.07.2023 and an FIR has been registered, however, the prosecutrix on being called did not come for identification of the unknown persons. As far as the complaint against Sajid is concerned, on receiving the complaint, the IO visited his house and asked



him to ensure that his CCTV camera does not focus on the house of the prosecutrix and the Beat Officer of the locality has been sensitized. Action has been taken against Sajid under Sections 93/94/97 of the Delhi Police Act, 1978. However, at present, there is no material to show that there is any threat perception.

6. I have heard learned counsel for the Applicant, learned counsel for the Complainant and learned APP for the State.

7. Perusal of the FIR registered at the instance of the prosecutrix shows that she was a married lady and has two children. In February, 2021, she was divorced from her husband and going by her own allegations, has known the Applicant since 2018. Applicant and prosecutrix had been regularly meeting each other from 2018 till the lodging of the present FIR in 2022, but there was no complaint by the prosecutrix, until the one leading to the present FIR. The complaint comes close to the marriage of the Applicant. The fact that the Applicant and the prosecutrix were in a relationship since 2018 cannot be glossed over for the purpose of this application including the fact that she is a professional woman who works for wedding events with two grown up children and knew or at least would be presumed to know the consequences of the relationship, besides the fact that having been married till 2021, prosecutrix knew that any promise allegedly made by the Applicant to marry her, was meaningless.

8. It is the case of the prosecution that after being granted interim protection, Applicant has joined investigation, as and when called for by the IO and has co-operated and the custodial interrogation is not required. Investigation is complete and Charge Sheet has been filed. On the statement made by the prosecutrix to the police on 19.07.2023 of the incident dated



04.06.2023, FIR No. 519/2023 under Sections 323/341/506/34 IPC has been registered against unknown persons and the matter is under investigation. As far as the complaint against one Sajid is concerned, he has been warned and beat constable has been sensitized. The investigation is continuing and needless to state that if any material comes in favour of the prosecutrix, she will be at liberty to apply afresh for cancellation of bail and it is also open to the prosecutrix to apply for protection before the Witness Protection Committee in the concerned District Court.

9. In view of the above facts and circumstances, this Court is inclined to grant anticipatory bail to the Applicant and it is directed that in the event of arrest, the Applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Trial Court and further subject to the following conditions:-

- (i) Applicant shall not leave India without permission of the Trial Court and shall ordinarily reside at the address given in the Trial Court record; any change in residential address shall be with advance intimation to the Trial Court and the IO by way of an affidavit;
- (ii) He shall appear before the Trial Court as and when the matter is taken up for hearing;
- (iii) He shall join investigation as and when directed by the IO concerned and will provide his mobile number to the IO. The mobile phone will be kept in working conditions at all times and will not be switched off;
- (iv) He shall report to the IO once every month till there is any further order to the contrary; and



(v) He shall not directly or indirectly make an attempt to influence the witnesses or tamper with evidence and shall not come in contact with the prosecutrix.

10. Nothing stated in this order shall tantamount to expression of an opinion on merits of the case.

11. Bail application stands disposed of in the aforesaid terms.

12. Copy of the order be sent to the concerned SHO for information and necessary compliance.

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13. In view of the order passed in BAIL APPLN. 3604/2022, no further order is required to be passed in the present petition and the same stands disposed of.

JYOTI SINGH, J

FEBRUARY 13, 2024/shivam