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

+ **BAIL APPLN. 3797/2023**

AKSHAY RANA

.....Petitioner

Through: Mr. Prashant Diwan, Mr. Brajesh
Dwivedi, Mr. Mayank Verma, Advs.

versus

STATE (GOVT. OF NCT OF DELHI)

.....Respondent

Through: Ms. Priyanka Dalal, APP for the State

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

01.08.2024

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1. By way of the present application, the applicant seeks anticipatory bail in FIR No.582/2023 under Section 376 of the Indian Penal Code, 1860 (IPC) registered at Police Station Moti Nagar.
2. The facts in brief as stated in the status report are on 09.10.2023, the above-mentioned case was registered at PS Moti Nagar vide FIR No. 582/23 Dt. 09.10.2023 U/s 376 IPC on the statement of complainant K in which she stated that she is working in Cheap Flight Scanner Pvt. Ltd., 380, 3rd floor, Aggrawal Plaza-II, Travel Agency, NSP, Delhi Where she met with a boy named Shubham Dogra and she got physically involved with him (Shubham is one of the partners in above said company). Later on, she got to know that Shubham has his girlfriend already, she said all things to the company's another partner named Akshay Rana. Akshay and she started boozing together at night of 8 October, 2023 and after that, Akshay was trying to rape her.



He started touching and got involved orally, licking her vagina. Somehow, the complainant pushed away Akshay and run away from there at her friend's room (Rajveer Kaur) who lives in the same building. Site plan was prepared on the instance of her statement.

3. Learned counsel for the petitioner submits that the petitioner has been joining the investigation as and when directed by the IO. It has been submitted that even the charge sheet has been filed and the petitioner is appearing regularly before the learned Trial Court.
4. Learned APP for the State also submits that the charge sheet has been filed against the present petitioner. It has further been submitted that the if any new evidence arises, the supplementary chargesheet will be filed.
5. Learned counsel for the complainant has opposed the bail application on the ground that the petitioner is trying to tamper with the evidence and in that process, he stole the mobile phone of the complainant for which the complaint has already been lodged with the concerned SHO on 14.10.2023. Learned counsel has therefore oppose the grant of anticipatory bail.
6. Learned APP for the State submits that the IMIEI number of mobile phone allegedly stolen was asked from the complainant but the same has not been supplied by the complainant.
7. Learned counsel for the petitioner has relied upon the judgment of the Apex Court in ***Bharat Chaudhary and anr. V. State of Bihar and anr. [(2003) SCC OnLine SC 1118]*** wherein it was inter alia held as under:



“ 7. From the perusal of this part of Section 438 of CrPC, we find no restriction in regard to exercise of this power in a suitable case either by the Court of Session, High Court or this Court even when cognizance is taken or a charge-sheet is filed. The object of Section 438 is to prevent undue harassment of the accused persons by pre-trial arrest and detention. The fact, that a court has either taken cognizance of the complaint or the investigating agency has filed a charge-sheet, would not by itself, in our opinion, prevent the courts concerned from granting anticipatory bail in appropriate cases. The gravity of the offence is an important factor to be taken into consideration while granting such anticipatory bail so also the need for custodial interrogation, but these are only factors that must be borne in mind by the courts concerned while entertaining a petition for grant of anticipatory bail and the fact of taking cognizance or filing of a charge-sheet cannot by itself be construed as a prohibition against the grant of anticipatory bail. In our opinion, the courts i.e. the Court of Session, High Court or this Court has the necessary power vested in them to grant anticipatory bail in non-bailable offences under Section 438 of CrPC even when cognizance is taken or a chargesheet is filed provided the facts of the case require the court to do so.”

8. I have considered the submissions. The charge-sheet in the present case has been filed after completion of investigation. The petitioner is regularly attending the trial.
9. Taking into the account the facts and circumstances, since the charge sheet has been filed, the petitioner is admitted to anticipatory bail in the sum of Rs.20,000/- with one surety of the like amount subject to the satisfaction of the learned Trial Court subject to following conditions;



- f) the petitioner shall cooperate in the investigation and appear before the Investigating Officer of the case as and when required;
- g) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- h) the petitioner shall provide his/her mobile number(s) to the Investigating Officer and keep it operational at all times;
- i) In case of change of residential address and/or mobile number, the petitioner shall intimate the same to the Investigating Officer/Court concerned by way of an affidavit.
- j) the petitioner shall also inform the investigation officer about any change in their address.

10. In view of above, the application stands disposed of.

DINESH KUMAR SHARMA, J

AUGUST 1, 2024

Pallavi