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

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Reserved on:23.01.2024
Pronounced on:14.02.2024+ **BAIL APPLN. 3816/2023**
MUZAMMIL AHMAD

..... Petitioner

Through: Mohd. Sharique Khan, Mr.
Rashid Islam and Mohd. Saqib
Khan, Advocates

versus

STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr. Satish Kumar, APP for the
State with SI Reena, P.S.
Anand Vihar.
Mr. Yogesh Kumar and Mr.
Aftab Fazil, Advocates for
complainant along with
complainant.**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The instant application under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of anticipatory bail in case FIR bearing no. 432/2023, registered at Police Station, Anand Vihar, Delhi for the offences punishable under Sections 376/377/506/34 of the Indian Penal Code, 1860 ('IPC').



2. Briefly stated, it is the case of the prosecution that a complaint was received from the prosecutrix alleging that she used to work in a hair salon of the present applicant/accused in April, 2017 when he had lured her into a trap and had physical relations with her. It is alleged that the applicant had secretly made a video of the physical relations and had threatened the prosecutrix that in case she will disclose it to anyone, he will post the video on social media and will defame her. Thereafter, on this pretext, it is further alleged the applicant/accused had kept on sexually assaulting the prosecutrix. It is also specifically alleged that the applicant had unnatural sexual relations with her and had threatened to kill her family. The accused had further blackmailed the prosecutrix, the accused had also misused her identity which she had given to him for the purpose of getting a job in the hair salon and had raped her at various hotels in Delhi. It is further specifically alleged that when the prosecutrix was fed up with the repeated blackmailing and rape by the accused, the accused had taken her to a mosque and had forced her to sign *Nikahnama* and many other plain papers and had threatened her that if she goes to the police, she will not be able to get any help as he will escape by proving that he was married to her. It is further alleged that the prosecutrix had narrated the entire incident to her mother and subsequently, family of the prosecutrix had gone to the house of the accused where he had disclosed that he was already married and had divorced her. It is alleged that on 15.08.2023, the present accused had called her to his house at Parwana Road where his brother had also shown the prosecutrix her obscene videos and had threatened to make



it public and had allegedly raped her. It is further alleged that on 23.09.2023, the present accused/applicant had called the prosecutrix to Geeta Colony Police Station and had forced her to submit a complaint or the applicant would make the video public. It is alleged that the prosecutrix was forced to submit some other complaint on her behalf to the police officers. Thereafter, the applicant/accused had sent her to Vasant Vihar along with a lady *Aarti* where he had kept her locked in a room for three days and had forcibly raped the prosecutrix against her will. The prosecutrix had somehow reached her home and had narrated the entire incident to her parents. Thereafter, the present FIR was registered. The prosecutrix was then counselled by NGO and was medically examined after she had lodged the complaint. Her statement was recorded under Section 164 of Cr.P.C.

3. Learned counsel for the applicant vehemently contends that in the year 2017, the complainant had approached the applicant through a common known person for getting a job and had subsequently joined hair salon of the applicant herein. It is further submitted that it is the case of the complainant that during her employment, she had developed affection towards the applicant. The complainant had left the job after 3-4 months of joining. However, she remained in touch with the applicant and she had proposed for marriage to the applicant and he had accepted and had married on 30.12.2022. It is further submitted that prior to the marriage, they had spent time with each other and had gone to different places in and around Delhi. It is also submitted that the complainant had asked the applicant for financial



help also and that the applicant used to give her money. It is also stated that it was the complainant who had after the *Nikah*, started pressurizing the applicant to give *Talaq* to his first wife. However, he had refused to do so. Thereafter, the complainant had falsely implicated him in the present case. It is submitted that the relationship between the complainant and the applicant was consensual in nature. The applicant is ready to join the investigation and therefore, anticipatory bail be granted to the applicant as prayed for.

4. Learned counsel for the complainant and the learned APP for the State vehemently oppose the present bail application and submit that the allegations levelled against the present applicant/accused are serious in nature. Moreover, there are specific allegations levelled against the applicant/accused. It is further submitted that NBWs have been issued against the present applicant since he is absconding and is not joining the investigation and therefore, the bail be rejected.

5. The prosecutrix is present in the Court and states that the marriage with the applicant was not solemnized as per Islamic law and that she had not given her consent for marriage, therefore, the application for grant of bail be rejected.

6. This Court has heard arguments addressed by learned counsel for the applicant, complainant as well as learned APP for the State and has perused the material available on record.

7. After going through the case file, it is revealed that during investigation, the IO has obtained register of entries of stay at various hotels on many occasions as alleged by the complainant in her FIR.



which prove that the accused and the victim had stayed in those hotels. During investigation, the IO has filed verification report wherein she has verified the factum of the marriage of the parties and that another complainant regarding the same is pending before Police Station Khajuri Khas, Delhi.

8. In the instant case, the prosecutrix who is present in the Court denies that she had given consent for the marriage, she has alleged that it was not disclosed to her that present applicant/accused herein was already married and had two children. As per the contents of the FIR, the applicant had sexually assaulted the prosecutrix on several occasions at several hotels by misusing the identity proof that she had furnished to the present applicant/accused when she was employed by the present applicant in his hair salon and he had also made her sign blank papers. It has also emerged during the investigation that the present applicant/accused had forcibly kept the prosecutrix at another destination for three days and had forcibly raped her. The inappropriate video which was prepared by the present applicant/accused on the basis of which he has been continuously threatening and raping the prosecutrix is yet to be recovered. The custodial interrogation of the accused is also required. Moreover, NBWs already stand issued against the present accused/applicant since he is absconding. The factum of marriage is also denied by the prosecutrix herein who states that her consent was not taken and she was made to sign the *Nikahnama* and the accused has not joined investigation, in these circumstances, this Court does not find any ground for grant of anticipatory bail to the present accused/applicant.



9. In view thereof, the present application stands dismissed.
10. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.
11. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRURY 14, 2024/zp