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

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Reserved on: 08.01.2024
Pronounced on: 12.01.2024+ **BAIL APPLN. 3830/2023****RAMBIR RATHI@ RAMVEER SINGH** Petitioner

Through: Mr. Vivek Sood, Sr. Advocate
along with Mr. Abhishek
Chaudhary, Mr. Brijesh
Chaudhary, Mr. Saurabh
Aggarwal, Ms. Rasneet Kaur
and Mr. Raunak Gupta,
Advocates

versus

THE STATE AND ANR. Respondents

Through: Mr. Manoj Pant, APP for the
State with SI Sanju, P.S. North
Rohini.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The instant application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed seeking regular bail in case FIR No. 15/2023, registered at Police Station North Rohini, Delhi, for the offences punishable under Sections 376/377/328/506 of the Indian Penal Code, 1860 ('IPC').



2. Brief facts of the case are that, the prosecutrix in her complaint had stated that she was having some disputes with her husband, for which she had filed cases against him, and due to the same, her husband had got her brother implicated in a false rape case i.e. FIR bearing no. 450/2022 under Sections 376D/328/506 IPC, Police Station Civil Lines, Rampur, Uttar Pradesh. She had alleged that the present accused/applicant, who was the investigating officer in the case in which her brother was the accused, had pressurised her to withdraw her cases against her husband if she wanted that her brother should be acquitted in the said rape case. It was alleged that when she had refused to agree to the demands of the applicant, the applicant had come to her house in the last week of September and had brought tea in a Milton bottle and had forced the prosecutrix to drink the same. She had alleged that after drinking the same, she could not oppose the applicant who had removed her clothes and had raped her. It was stated that in the morning, the prosecutrix had told the applicant that she would lodge an FIR against him and upon hearing the same, the applicant had threatened to invoke Gangster Act against her brother. It is the case of prosecutrix that by issuing such threats, the applicant had raped her three times and after she had told him that she had become pregnant, the applicant had asked her to undergo abortion. It is further alleged that on 20.10.2022, the applicant had again raped her, and thereafter on 09.01.2023, he had called the prosecutrix from another WhatsApp number and had asked for her location. The prosecutrix had also stated that the applicant used to call her on a daily basis, including video calls, where he used to



commit obscene acts. Thus, the present FIR was registered on 10.01.2023. Thereafter, the complainant was medically examined vide MLC No. 010/2023 dated 10.01.2023 wherein the complainant had reiterated her allegations and had further alleged that the accused had also committed forceful unnatural sexual assault upon her.

3. Learned Senior counsel for the applicant argues that applicant has been falsely implicated in the present case by the prosecutrix since he is the investigating officer in the case in which prosecutrix's brother is an accused. It is submitted that seven months have passed since this Court had dismissed the bail application of the applicant and certain new facts have emerged which require consideration. It is argued by learned Senior counsel that it has come to the knowledge of the applicant that prosecutrix has lodged similar false and frivolous FIRs against several other persons in order to extort money. Learned Senior Counsel further submits that he has filed on record the transcripts of conversation pertaining to the prosecutrix wherein she can be clearly heard to be admitting that the applicant has been falsely implicated in the present case and that she will appear before the Court and will inform the Court that the applicant be granted bail. It is further stated that the matter is being adjourned by the learned Trial Court for the purpose of cross-examination of the prosecutrix as she has not been appearing before the learned Trial Court for last several dates of hearing. Therefore, it is prayed that applicant herein be enlarged on regular bail.

4. *Per contra*, learned APP for the State argues that the allegations against the applicant are serious in nature and that the



prosecutrix has supported the case of prosecution. It is stated that the applicant was the investigating officer in the case of the brother of prosecutrix and was harassing and threatening the prosecutrix even after securing interim protection. It is further pointed out that this Bench had dismissed the regular bail application of the applicant *vide* detailed order dated 10.05.2023. It is also argued that that it is the counsel for the accused who has been seeking adjournment on the ground that they will cross-examine the prosecutrix only after the receipt of FSL report. Therefore, since the prosecutrix is yet to be cross-examined before the learned Trial Court, it is prayed that the present bail application be dismissed.

5. This Court has heard arguments addressed by learned Senior Counsel for the applicant as well as learned APP for the State, and has perused the case file.

6. The allegations against the applicant, to encapsulate, are that he being a Sub-Inspector in U.P. Police and investigating officer of a case involving the brother of the prosecutrix, had molested, raped and thereafter continuously threatened the prosecutrix, for which there are specific allegations leveled by the prosecutrix. The detailed discussion on the allegations against the applicant, while dismissing the first bail application of the applicant herein, in the order dated 10.05.2023 is extracted hereunder for reference:

“8. This Court takes note of the fact that a case involving allegations of rape is pending investigation against the brother of the prosecutrix, which was being investigated by the present accused/applicant. The prosecutrix had also filed cases under Section 125 Cr.P.C. and Section 498A IPC against her husband which are pending in Delhi Court. As per



the records, the applicant, who is the investigating officer of the case registered against the brother of the prosecutrix, had also threatened her that she should withdraw her cases filed against her husband and only then he would ensure that the complainant in the case filed against her brother will also withdraw the case of rape against him. The applicant is also alleged to have threatened the prosecutrix that in case she would lodge a complaint against him regarding sexual assault, he would invoke Gangsters Act case against her brother. Therefore, it appears that the applicant had taken advantage of his dominant position of authority and had not only sexually assaulted the prosecutrix but had also extended threats to her.”

7. The prosecutrix, who was present in person before this Court during the course of hearing, denied the transcripts or any other conversation to have taken place between her and any other person, as alleged on behalf of the applicant. Be that as it may, and without commenting on the issue of authenticity of any such transcripts or recordings, this Court at the same time, also notes the past conduct of the applicant of threatening the prosecutrix, which was considered and taken note of by this Court in the order dated 10.05.2023. The relevant portion of the order reads as under:

“9. This Court has also gone through the proceedings of the learned Trial Court. The learned Trial Court had granted interim relief to the present applicant and had on each occasion when the case was adjourned, directed the applicant that he will not contact the prosecutrix. To the contrary, evidence has been brought on record by the prosecutrix before the learned Trial Court whereby she had placed before the Court, a video corroborating her claim that when she had attended the hearing before the learned Trial Court, the applicant had sent a local goon to threaten her. She had also placed before the Court and the Investigating Officer, the video clips and messages sent by the applicant to the prosecutrix to pressurise her to withdraw the present case and



to threaten her and that he had sent some photos etc. of her brother to her.”

8. Furthermore, though one of the grounds for moving this second bail application is that the applicant had come to know that prosecutrix had got such false FIRs registered against several other persons, it is mentioned in the application itself that the applicant has no information of any such cases.

9. Considering the gravity of the offence alleged to have been committed by the present accused/applicant, as well as the fact that the prosecutrix has not been cross-examined yet before the learned Trial Court, coupled with the fact that the learned counsel for the accused has been seeking adjournment for cross-examination of the prosecutrix before the Court, no ground for grant of bail is made out at this stage.

10. Accordingly, the present bail application stands dismissed.

11. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

12. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 12, 2024/zp