



\$~4

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

+ **BAIL APPLN. 2713/2024**

SACHIN ADHANA

.....Petitioner

Through: Mr. Gopal Singh, Advocate.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondent

Through: Mr. Pradeep Gahlot, APP for the
State with SI Priya, PS: Palam
Village.

Mr. Kunwar Sultan, Advocate for
complainant.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

13.11.2024

%

1. This petition has been filed seeking bail in FIR no. 652/2022 under Sections 420/494/406/506 IPC registered at P.S. Palam Village.
2. The petitioner was arrested on 24th September 2022. As per the Nominal Roll, he has undergone 2 years of custody and has no previous involvements except for cases under the Protection of Women from Domestic Violence Act, 2005 pending against him.
3. The case of the prosecution is that on 23rd September 2022, a case was registered on the basis of a complaint filed by the complainant, who stated that she connected with the accused through the social media platform, 'Instagram', in January 2020. After connecting for a few months, they met on 02nd July 2020, and subsequently started meeting frequently in restaurants, hotels, etc.
4. The accused convinced the complainant/victim to invest Rs. 4.5 lacs in



his business. He promised to marry the victim. Engagement ceremony of the accused and the complainant was organized by the complainant's family at RZH-408, Gali No. 4 Raj Nagar-II, Palam, South West. About, Rs. 3.51 lacs were spent on the engagement ceremony.

5. Further, the marriage of the complainant and the accused was solemnized at Shiv Mandir, near Arya Samj, old Mehrauli Road, Palam, Delhi, on 15th February 2021. The complainant's family spent more money on the wedding function.

6. Later, complainant came to know that accused was already married to another woman named Mukta and has a daughter, who lives in Sanjay Colony, Faridabad, with her parents. The case was therefore, registered under Sections 420/494/406/506 IPC.

7. In a supplementary statement she stated that on 05th July 2020, petitioner took her to some hotel in Gurgaon, where he established forceful physical relationship with her, on this basis, Section 376 IPC was also added to the case. The records were verified.

8. The petitioner filed some additional documents, which are various complaints filed by the prosecutrix, alleging that the accused has duped her. Counsel for the petitioner submitted that none of these complaints, state that there was any non-consensual sexual activity with the accused. The FIR was registered, pursuant to an application under Section 156(3) Cr.P.C., which also does not contain any allegation of non-consensual physical engagement with the complainant.

9. It was only later in her statement, under Section 164 Cr.P.C., that she raised the issue of the two years old incident. Subsequently, in the MLC during the medical examination, she raised the issue of the 2020 incident.



10. The prosecutrix, previous wife of the accused, previous father-in-law of the accused, mother of the prosecutrix have already been examined and discharged.

11. Counsel for complainant stated that there are threats, which have been made to her, on behalf of the petitioner. However, till date no complaint has been filed, with regard to such threats. Statement of the prosecutrix under Section 164 Cr.P.C. which was recorded after the alleged incident of threat, does not mention any incidence of threat.

12. The material witnesses have been examined, and petitioner has been in custody for more than 2 years, has no previous involvements. Also, considering the contentions made on behalf of the petitioner, noted above, and basis the additional documents which the Court has perused, the Court is inclined to grant bail to the petitioner.

13. The Hon'ble Supreme Court in ***Satender Kumar Antil v. CBI***, (2022) 10 SCC 51, observed as follows:

“12. The principle that bail is the rule and jail is the exception has been well recognised through the repetitive pronouncements of this Court. This again is on the touchstone of Article 21 of the Constitution of India...”

(emphasis added)

14. The Hon'ble Supreme Court also noted the observations made by Krishna Iyer, J., in ***Gudikanti Narasimhulu v. Public Prosecutor***, (1978) 1 SCC 240, as under:

“1. ... the issue [of bail] is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitised judicial process. ... After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of “procedure established by law.”



The last four words of Article 21 are the life of that human right.”
(emphasis added)

15. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- iv. Petitioner shall join investigation as and when called by the IO concerned.
- v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
- vi. Petitioner will mark presence physically before the concerned I.O. every first and third Thursday at 4 p.m., and will be not kept waiting for more than an hour.



- vii. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.
16. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.
17. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
18. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
19. '*dasti*'
20. Order be uploaded on the website of this Court.

ANISH DAYAL, J

NOVEMBER 13, 2024/RK

Click here to check corrigendum, if any