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

+ **BAIL APPLN. 3979/2023 and CRL.M.A. 32208/2023**

VISHAL CHANDELA

..... Petitioner

Through: Mr. Ajay Burman, Sr. Advocate with
Mr. Rishabh Sahu, Mr. Varun Seth, Mr.P. Tyagi
and Mr. Rishab Tyagi, Advocates

versus

THE STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Aashneet Singh, APP for State with
WSI Vimlesh
Mr.S. Tyagi, Mr.Saurav and Mr.Vaibhav Dubey,
Advocates for complainant

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

16.02.2024

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1. The present application has been filed under Section 438 Cr.PC. seeking anticipatory bail in FIR No.633/2023 registered under Sections 376/506 at P.S. Aman Vihar.
2. Learned Senior Counsel for the petitioner/applicant submits that in the present case, prior to their meeting with each other, both the complainant and the applicant were already married and having children. The complainant is a matured lady of 26 years of age and in her complaint, she has stated that while her husband was in jail, she had two children aged about 9 years and 6 years. She came in contact with the applicant, who is a police official, when her brother was apprehended in a kalandara registered under Sections 107/151 Cr.P.C. She has further alleged that subsequently, she started living with the applicant, who had also promised to marry her, as



her husband was in custody in a MCOCA case. The applicant had also arranged for all the household articles while they had started living together. Later, the applicant stopped coming to the house of the complainant whereafter she gave a call at PCR No.100 however, the same was withdrawn after some mutual discussion/talk. Thereafter, she put pressure on the applicant to marry her, which he refused. On 19.10.2023, when she informed the applicant about her pregnancy, he gave her a tablet for the purpose of abortion. The complainant however, didn't take the tablet. It is further contended that though the complainant had stated that the applicant had attempted to abort the child however, the same is belied by the fact that in the trial court proceeding dated 24.12.2023, it has been recorded that the complainant wanted to abort her child with her own free will. Lastly, it is stated that in pursuance of the interim protection granted on 24.11.2023, the applicant had joined the investigation on three occasions.

3. Learned APP for the State, duly assisted by learned counsel for the complainant, has vehemently opposed the bail application. He submits that the applicant was well aware of his own marriage and took advantage of the complainant's position. The complainant's UTP came positive and though the child was aborted with the permission of the court, the fetus has been preserved. It is further submitted that supplementary challan has also been filed under Section 377/313 Cr.P.C.

4. I have heard learned Senior Counsel for the applicant, learned APP for the State as well as learned counsel for the complainant and have also gone through material placed on record. It is stated that the chargesheet has been filed without arrest.



5. As noted above, both the applicant and the complainant were mature and married having children from their respective marriages. Despite being aware of the fact that he was already married, the complainant stated that she was in a live-in relationship with the applicant of her own accord. As per the FIR, she had come into contact with the applicant on 27.01.2023, whereafter they started living together. Physical relations were established for the first time on 03.06.2023, meaning thereby that the incident of complainant's brother being apprehended was a distant circumstance as there was a gap of more than 4 months between the two dates. In Prashant Bharti v. State (NCT of Delhi) reported as (2013) 9 SCC 293, the Apex Court opined that an inducement of marriage is not possible to an already married person.

6. Keeping in view the aforesaid facts and circumstances as well as the fact that the applicant has already joined the investigation and that the chargesheet has been filed, the interim protection granted to him vide order dated 24.11.2023 is made absolute and it is directed that in the event of arrest, the applicant be released on bail subject to him furnishing a personal bond in the sum of ₹25,000/- with one surety of like amount to the satisfaction of the Arresting Officer/Investigating Officer/SHO of the concerned Police Station and also subject to the following further conditions:-

- (i) At the time of furnishing bail bond, the applicant shall provide the mobile number, which he undertakes to keep operational at all times during the pendency of the trial.
- (ii) The applicant shall join the investigation as and when asked.



- (iii) The applicant shall inform the concerned Investigating Officer about his current residential address.
 - (iv) In case of change of residential address/contact detail, the applicant shall promptly inform the same to the concerned Investigating Officer/SHO.
 - (v) The applicant shall not directly or indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
 - (vi) The applicant shall regularly appear before the trial Court.
7. The application is disposed of in the above terms alongwith the pending application.

MANOJ KUMAR OHRI, J

FEBRUARY 16, 2024

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