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IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Reserved on: 16.01.2024**Pronounced on: 24.01.2024*

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BAIL APPLN 4093/2023

DEEN DAYAL@DEEPAK

..... Petitioner

Through: Mr. A.R. Gural, Mr. Vikram
Gujral, Mr. S.S. Panwar, Mr.
Ravi Panwar and Ms. Nividita
Panwar, Advocates

versus

THE STATE

..... Respondent

Through: Mr. Manoj Pant, APP for the
State with SI Ruby, P.S.
Nangloi.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The present bail application under Section 439 of the Code of Criminal Procedure Code, 1973 ('Cr.P.C') has been filed on behalf of the applicant seeking grant of regular bail in FIR No. 756/2023, registered at Police Station Nangoli, Delhi for offences punishable under Sections 376/506 of the Indian Penal Code, 1860 ('IPC').
2. Briefly stated, facts of the present case are that the prosecutrix, after the death of her husband in the year 2019, had met the present accused/applicant in the year 2022. Both of them had become close



friends and had also developed physical relations with each other, on the pretext of marriage, since the applicant had informed the prosecutrix that his wife had also passed away. It is alleged that the applicant had established physical relations with the prosecutrix for the first time on 22.04.2022 and last time on 22.09.2023. It is further alleged that both the applicant and the prosecutrix used to visit various places together, and that the applicant had taken her to his residence in March 2023, and had made physical relations with her forcefully on false pretext of marriage. However, the prosecutrix had then suffered a leg injury and since then, the applicant had stopped visiting her. As alleged, the prosecutrix had later come to know that the applicant had married somebody else. On these allegations, the present FIR was registered on 02.10.2023.

3. Learned counsel appearing on behalf of the accused/applicant argues that the present case has been registered against the applicant to harass, humiliate and torture him, and he has been in judicial custody since 03.10.2023. It is stated that there are material discrepancies in the FIR and the statement of prosecutrix recorded under Section 164 of Cr.P.C. It is also contended that as clear from the contents of FIR, the relationship between the applicant and the prosecutrix was consensual in nature and had continued for an year. It is further submitted that custody of applicant is not required for the purpose of investigation, there are no chances of applicant absconding or fleeing from justice, and that the allegations of promise of marriage are absurd and improbable and therefore, the petitioner be granted regular bail.



4. On the other hand, learned APP for the State opposes the present bail application and submits that the present case is a case of committing rape on false pretext of marriage and the allegations levelled in the FIR are serious in nature. It is further stated that the prosecutrix has supported her earlier version in the statement recorded under Section 164 of the Cr.P.C., and since the chargesheet in this case has yet not been filed, the present bail application be rejected.

5. This Court has heard arguments on behalf of the applicant as well as State and has perused the material placed on record.

6. It is the case of the prosecutrix that the applicant herein had met her in the year 2022 and had developed physical relations with her on false pretext of marriage, between the period April 2022 to September 2023, and he had informed her that his wife had also passed away a few months ago. As alleged, during the said period, the applicant had also established physical relations with the prosecutrix at his house against her consent. It is further alleged by the prosecutrix in her statement under Section 164 of Cr.P.C. that after she had suffered an injury in her leg due to an accident, the applicant herein had left her and had married somebody else. The investigation in the present case is still at initial stage has not yet been concluded and the FSL report is also awaited.

7. Considering the overall facts and circumstances of the case, and also the fact that the allegations levelled in the present FIR and statement under Section 164 of Cr.P.C. are serious in nature, the chargesheet is yet to be filed and charges are yet to be framed in this



case, and that possibility of applicant threatening or influencing the prosecutrix cannot be ruled out, no ground for grant of regular bail is made out at this stage.

8. Accordingly, the present bail application stands rejected.

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

10. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 24, 2024/ns