



\$~106

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

+ **BAIL APPLN. 2839/2024**

MOHD RIZWAN

.....Petitioner

Through: Mr. Kirti Uppal, Sr. Advocate with
Mr. Misbah Bin Tariq and Mr. Mohd
Amanullah, Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Richa Dhawan, APP for State
with SI Renu, D-6661, P. S. Shaheen
Bagh
Mr. Vikas Arora, Ms. Radhika Arora,
Mr. Piyush Kumar and Mr. Abhay
Sachan, Advocates for complainant

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

08.10.2024

%

1. The instant bail application under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") has been filed on behalf of the petitioner/applicant seeking grant of regular bail in FIR bearing No. 94/2024 registered at Police Station Shaheen Bagh for offences punishable under Sections 376/498A/506/34 of the Indian Penal Code, 1860 (hereinafter "IPC").

2. The brief facts that led to the filing of the instant application are as under:



- (a) FIR bearing no. 94/2024 was registered by the complainant alleging that in the last week of January, 2024, while she was in her matrimonial home, one night when she was alone in her room, her father-in-law, Mr. Mohd. Babu Qureshi had entered the room without clothes and had sexually assaulted her, and threatened her not to disclose this incident to anyone.
- (b) Thereafter, when she revealed the said incident to the husband, i.e., co-accused Mr. Mohd. Faizan Qureshi, her mother-in-law Mrs. Hanifa Qureshi and sister-in-law Ms. Gulfisha, they told her that it was a normal practice at their house and that she was assaulted physically following which the father-in-law continued to assault her. Further, the applicant herein namely Mr. Mohd. Rizwan had also allegedly raped her on two occasions.
- (c) It has also been alleged that the complainant's husband used to threaten her on gun-point. Further, on the intervening night of 3rd/4th March, 2024, due to extreme mental and physical disturbance, the complainant got sick and was admitted to VIMHANS Hospital for her treatment. Thereafter, the complainant filed a police complaint on the basis of which the aforesaid FIR was registered.
- (d) The applicant had filed a bail application under Section 483 of the BNSS for grant of regular bail which was dismissed vide order dated 31st July, 2024. Hence, the



present bail application.

3. Mr. Kirti Uppal, the learned senior counsel appearing on behalf of the applicant submitted that the applicant is an innocent person and a law abiding citizen. It is submitted that the applicant is an individual, making endeavours for an honest living and having a good reputation in the society with no criminal antecedents, and is a student of BBA at Jamia Milia Islamia, New Delhi. It is further submitted that the applicant has been arrayed as an accused by the complainant by fabricating and concealing material facts.

4. It is submitted that the applicant has, on multiple occasions, tried to reach out to the complainant and his sons, however, the complainant's family threatened him by stating that they would implicate him and his entire family in false cases. As a consequence of the actions of the complainant and her family, including the fact that the applicant was denied access to his wife and children, the applicant was constrained to file a police complaint on 7th March, 2024 and thereafter on 15th March, 2024, both at PS- Shaheen Bagh.

5. It is submitted that the mother of the applicant filed a complaint against the family of the complainant on 26th March, 2024 as they had forcefully entered their house on the intervening night of 3rd / 4th March, 2024 and committed rape upon Ms. Ifat Qureshi (sister of the applicant herein), pursuant to which, an FIR bearing no. 109/2024 was registered at PS – Shaheen Bagh.

6. It is submitted that the co-accused in the instant FIR, namely Ms. Gulfisha, has been granted anticipatory bail vide order dated 2nd May, 2024 passed by this Court in Bail Appln. No. 1267/2024. It is submitted that



another co-accused namely Mrs. Hanifa Qureshi has also been granted bail vide order date 20th May, 2024 passed by this Court in Bail Appln. No. 1250/2024.

7. It is further submitted that in the meanwhile, the applicant was granted interim bail on account of his BBA examination vide order dated 3rd June, 2024 passed by this Court in Bail Appln. No. 1927/2024 and upon expiry of the interim bail, the applicant surrendered in terms of the bail order, and it is pertinent to state here that the applicant did not violate or misuse the conditions of bail order. It is also submitted that the co-accused namely Mr. Babu Qureshi has also been granted anticipatory bail vide order date 10th June, 2024 passed by learned District Judge in Bail Appln. No. 1802/2024.

8. It is submitted that vide order dated 18th June, 2024, the Hon'ble Supreme Court, in SLP (Crl.) No. 8142/2024, was pleased to stay the arrest of the brother of the applicant.

9. It is submitted that on 4th July, 2024, the father and brother of the applicant (co-accused) were attacked by the family members of the prosecutrix when the father of the applicant was injured by a gunshot in his arm which led to the registration of FIR bearing No. 188/2024 at PS-Shaheen Bagh under Section 109(1), 61, 3(5) of the BNS and Section 25, 27 of the Arms Act, 1959.

10. It is submitted that charge sheet has been submitted by the concerned IO and no further custody is required as the case is not at the nascent stage. Further, the IO has already concluded the investigation *qua* the applicant and there is no possibility of tampering with the prosecution evidence.

11. It is also submitted that a settlement agreement dated 5th October,



2024 has been executed between the complainant and the accused wherein both the families have agreed to amicably settle the disputes among them and have further agreed that the various FIRs and cases, filed by both the parties against each other are result of misunderstandings and miscommunications which now stands resolved. It is submitted that in terms of the aforesaid settlement agreement, the complainant's family has withdrawn the petition for cancellation of bail bearing no. CrI. MC. No. 4865/2024 *vide* order dated 4th October, 2024.

12. On instructions, learned senior counsel undertakes that the applicant shall abide by any condition imposed by this Court while granting bail. The address of applicant has already been verified by the State and found to be true and correct. There are no criminal antecedents of the applicant, who is in languishing in custody. The investigation in the present case has been completed and chargesheet has been filed and there is no requirement of his custodial interrogation. Hence, it is prayed that the applicant may be released on bail.

13. *Per contra*, Ms. Richa Dhawan, learned APP for the State vehemently opposed the bail application and submitted that the present applicant is involved in a heinous crime and therefore, he is not entitled to the concession of bail and if released on the bail he may influence the trial. However, it is fairly conceded on behalf of the State that there is no previous criminal history of the applicant and investigation *qua* the applicant has been completed and charge sheet has been filed.

14. At this stage, learned counsel appearing on behalf of the complainant, on instructions, submitted that the complainant has no objection if the applicant is released on bail as disputes between the complainant and the



applicant as well as their families stands settled in terms of the settlement agreement dated 5th October, 2024.

15. Heard learned counsel for the parties and perused the record.

16. This Court has perused the contentions made in the application, status report as well as the FIR. The address given by the applicant has been verified by the State and found to be correct. Further, the charge sheet has been filed before the learned Court concerned after completion of investigation by the IO.

17. Keeping in view the contentions and the arguments advanced by the learned counsel for the parties, and the fact that a settlement has been arrived at between the complainant and the applicant vide settlement agreement dated 5th October, 2024 which is on record, this Court is inclined to allow the instant application seeking regular bail.

18. It is accordingly directed that the applicant be released on bail on his furnishing personal bond in the sum of Rs.1,00,000/- with two sureties of like amount to the satisfaction of the Jail Superintendent/learned Trial Court subject to the conditions as follows:-

- (a) he shall under no circumstances leave India without prior permission of the learned Trial Court;
- (b) he shall appear before the learned Trial Court as and when required;
- (c) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- (d) he shall provide his mobile number(s) and keep it operational at all times;
- (e) he shall commit no offence whatsoever during the period he is



on bail;

(f) in case of change of residential address and/or mobile number, the same shall be intimated to the learned Trial Court by way of an affidavit; and

(g) he shall report to the jurisdictional Police Station of Shaheen Bagh on 15th day of every calendar month.

19. Accordingly, the application stands disposed of.

20. Copy of this order be sent to the Jail Superintendent for compliance.

21. It is made clear that any observations touching upon merits of the case are purely for the purpose of deciding the question of grant of regular bail by this Court and shall not be construed as an expression of final observations in the proceedings pending before the learned Trial Court.

22. *Dasti.*

CHANDRA DHARI SINGH, J

OCTOBER 8, 2024

gs/ryp

Click here to check corrigendum, if any