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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3028/2024 CRL.M.A. 32676/2024**
AAN MUHAMMADPetitioner

Through: Mr. Rajesh Kumar, Mr. Surajpal Singh
and Mr. Anuj Kumar, Advocate.

versus

STATE NCT OF DELHIRespondent

Through: Mr. Hemant Mehla, APP for State.
Ms. Yogita Sunaria, Advocate for
prosecutrix along with prosecutrix in
person.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

28.10.2024

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1. This petition has been filed seeking regular bail in FIR No. 310/2024, at PS Burari, under Sections 376(2) (n)/417/506 IPC. The petitioner has been in custody since 18th May, 2024, has no previous involvements and his jail conduct has been satisfactory.
2. The FIR was registered basis a PCR call on 17th May, 2024 stating that on 8th April, 2024, a person that she had known, had raped her and for 8 years has been indulging in the same consistently.
3. The victim is aged 40 years and her statement was recorded. She stated that she was in a relationship with the petitioner for the last 10 years and the petitioner made repeated physical relations with her on the pretext of marriage. She further alleged that as and when she asked him to marry her, the accused always stated that he is a *muslim* and has married her by telling three



times '*kabool hai*' but did not follow any other ritual and rites.

4. In the month of March, 2024, the petitioner solemnized his marriage with other girl without the knowledge of the victim. Later she moved to the police for complaint when she came to know about the same.

5. In the MLC, it is stated that a 40-year-old widow having history of consensual sexual relations with 30 year's man for 8 years. It is further stated in the MLC that she first met a man 10-15 years ago through common acquaintance.

6. In the FIR, it is stated that her husband had expired in 2007 and she lives with her children. After the death of her husband, she got married to her brother-in-law and has a child from him. Since, the second husband did not do any job, she separated ten years ago. At that point of time, the petitioner met her and became her friend. She met the petitioner through petitioner's sister, Sayana.

7. The charge-sheet was, subsequently, filed and arguments on charge are going on.

8. Counsel for petitioner points out to the statement which has been recorded under Section 164 of C.r.P.C. where she has stated, that on 13th April, Mustaq had called her to tell her about the marriage of the petitioner. She stated that she knew about it and she has never stopped him from doing so. However, she did state that she has been duped in the said matter.

9. Counsel for the complainant has also been heard. The complainant is also present in Court, pursuant to Court Notice issued.

10. Considering these circumstances, the Court is of the opinion that no purpose of keeping the petitioner in custody, considering that there is admission of consensual relationship between petitioner and respondent No.2



for about 10 years. The complaint was lodged when the petitioner married someone else.

11. 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.

12. 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 Tuesday of every month at 4p.m., and will be not kept waiting for more than an hour.



- vii. Petitioner shall not approach the victim directly or indirectly in any manner whatsoever or physically venture close to her residence.
 - viii. 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.
13. 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.
14. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
15. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
16. 'dasti'
17. Order be uploaded on the website of this Court.

ANISH DAYAL, J

OCTOBER 28, 2024/RK

Click here to check corrigendum, if any