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

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Reserved on: 22.01.2024

Pronounced on: 24.01.2024

+ **BAIL APPLN. 4252/2023**

MOHIT PILANIA

.... Petitioner

Through: Mr. Mahesh Chand, Advocate

versus

THE STATE GOVT. OF NCT OF
DELHI AND ANR.

...Respondents

Through: Mr. Manoj Pant, APP for the
State.
Mr. Puneet Bajaj, Advocate for
complainant.

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, 1973 ('Cr.P.C.') has been filed by the applicant seeking grant of regular bail in FIR No. 220/2021, registered at Police Station Connaught Place, New Delhi for offences punishable under Sections 419/420/493/494/495/376/109/201/120B of the Indian Penal Code, 1860 ('IPC').
2. The brief facts of the case are that the present case was registered on 02.12.2021 on the complaint of one Ms. 'P'. In her complaint, she



had alleged that she had met the main accused Aarav @ Ravi Gautam through online matrimonial site “*Jeewansathi.com*”. Ms. ‘P’ had married accused Aarav @ Ravi Gautam on 18.07.2021, at Arya Samaj Mandir, Hanuman Road, Connaught Place, New Delhi. On 18.11.2021, she had received a phone call from a woman, who had introduced herself as Nikita, and had told her that accused Aarav was her husband. Ms. ‘P’ had realised that Aarav was already married to another lady when he had got married to her. The accused Aarav had also taken away her gold jewellery and had mortgaged it for bank loan. On 19.11.2021, she had lodged a complaint against him at Police Station Connaught Place, New Delhi and thereafter, the present FIR was registered.

3. During the course of investigation, the Investigating Officer had obtained the profile details of the accused from the above-mentioned matrimonial website, and had found that the said profile was registered with mobile number 8920943365. The profile was created on 27.02.2019 with the name of Aarav Chaudhary, Mobile No. 8920943365 and E-mail ID "aarav007aryan@gmail.com", DOB: 21-04-1990 and marital status as "Never Married". The profile creator had mentioned in his profile that his parents had died. Further, the profile creator had shown interest in about 1411 profiles of different age groups of females. The accused Aarav was arrested in the present case from House No. 222/3, Govindpuri, Delhi, on 13.12.2021.

4. Further during investigation, on 15.12.2021, certified copy of marriage certificate no. T-20368/2020 dated 14.08.2020 was obtained from Arya Samaj Marriage Mandal, Khirkee Village, Malviya Nagar,



Delhi. According to it, the accused Aarav had married another lady namely Nikita Sehgal on 14.08.2020. During the subsistence of this marriage, he had again married the complainant herein by keeping her in dark about his earlier marriage. On 30.12.2021, certified documents of marriage certificate No. 11835 and other documents related to the marriage of Ms. 'P' and Aarav dated 18.07.2021 were obtained from In-charge, Arya Samaj Mandir, 15 Hanuman Road, Connaught Place, Delhi.

5. On 01.12.2022, statement of Ms. 'P' was recorded under Section 164 of Cr.P.C., wherein she had corroborated her statement recorded under Section 161 of the Cr.P.C. She had further revealed that the accused Aarav had applied for several loans in her name and PAN Card and had also transferred funds in different bank accounts. She had further alleged that the present accused/applicant Mohit had accompanied main accused Aarav on 11.12.2020, when the date of marriage was fixed in this case.

6. The present accused/applicant Mohit was arrested in the present case on 07.02.2022.

7. Learned counsel for the accused/applicant Mohit argues that the applicant has been falsely implicated in the present case, and that only allegation against him is that he had visited the house of complainant and had met her parents and had affirmed the fact that the main accused Aarav @ Ravi Gautam had lost his parents. It is further submitted that the applicant was not aware that main accused Aarav was already married and already had a child and that the accused had merely attended the *Roka* ceremony and had received some money in his



account on the asking of main accused Aarav.

8. Learned APP for the State, on the other hand, submits that the accused Aarav @ Ravi Gautam had befriended the complainant from the website *Jeevansathi.com*. It is stated that during investigation, it has transpired that he had shown interest in 1411 women on the website. It is argued that it is the present applicant who had accompanied the main accused to the house of the complainant at the time of *roka* ceremony and had introduced himself as his friend and had met the parents of the complainant and had affirmed that the main accused had lost his parents. It is also stated that the present accused Mohit already knew that the main accused Arav was already married and had a child. It is further argued that applicant had also received a sum of Rs. 50,000/- from the complainant which was received in his account on a false pretext made by the main accused. It is also stated though till now it is clear from the investigation that accused Ravi Gautam had befriended 1411 women through the website *Jeevansathi.com*, and there may be more women cheated. It is stated that the accused persons including applicant herein have succeeded to cheat money from vulnerable women who are in the age group of about 40 years and want to be married. It is also stated that it was not the first engagement of the main accused and the applicant had been instrumental in gaining the trust of the family of the complainant and the complainant for this matrimonial alliance. It is also stated that the present applicant Mohit is the physical training instructor ('PTI') of the main accused Aarav and used to teach him in school. It is, therefore, stated that the allegations against both the accused persons are of conspiracy and therefore, his bail application be



rejected.

9. This Court has heard arguments addressed by learned counsel for the applicant as well as learned APP for the State and learned counsel for complainant, and has perused the material on record.

10. After going through the record, this Court is of the opinion that contrary to the assertion made by the learned counsel for the applicant, the role of the present applicant/accused Mohit is mentioned in the statement recorded under Section 164 of Cr.P.C., the FIR also mentions that only one person had attended the marriage from the side of main accused which became clear from the other statements that it was the present accused Mohit. A perusal of the further statements recorded under Section 161 of Cr.P.C., including statement of complainant's father, as well as the statement recorded under Section 164 of Cr.P.C. also reveals that there are specific allegations against the present accused that he had accompanied the main accused Arav to the house of the complainant where he had introduced himself as his friend and had told them that the parents of the main accused Arav had passed away. It is also specifically mentioned in the statement recorded under Section 164 of Cr.P.C. that an amount of Rs. 50,000/- was transferred into the bank account of the present accused/applicant on false pretext made by the main accused Arav which has been proved during investigation from the complainant, which point out towards the conspiracy between the main accused and the present accused Mohit.

11. It is also apparent from the record that the present accused/applicant had attended the *roka* ceremony of the complainant and the main accused Aarav.



12. Further, it is also clear from the record and investigation carried out so far, that the present accused Mohit was in touch with the first wife of the main accused and there are call details, etc., between them which show that he was aware about the accused being married earlier and his having a child from his first wife.

13. Therefore, it has emerged from the record *prima facie* that it was the accused herein who had convinced the complainant and her parents for the marriage by misleading them and convincing them that the main accused was unmarried and his parents had passed away. On the said assurance, they had acted and the accused and complainant had got married. Moreover, the submissions made before this Court by the IO reveal that the present accused/applicant was a teacher of the main accused Arav and has, by hatching a criminal conspiracy, cheated the complainant and his family of about Rs. 50,000/-. As is clear from the investigation till date, the main accused Aarav has shown interest in 1411 profiles of women of different age groups on *Jeevansathi.com* and it is still a matter of investigation as to how many other women he has cheated, married, got engaged to for the purpose of cheating money from them.

14. As far as the argument of learned counsel for the applicant that the brother of the complainant is a judicial officer and therefore, due to his influence, the FIR was registered and bail is not being granted to the present accused/applicant is concerned, in this regard, this Court takes strong objection to these submissions since it is not the submission alone which has been made before this Court, but the learned counsel for the accused has also filed on record an annexure - 'E' which reveals



the name of the judicial officer, his designation and his present posting as well as the details of complainant herself which has been filed on record.

15. The said annexure is a letter with the subject mentioned as Public Interest Litigation (PIL) addressed to the Hon'ble Chief Justice of India. The counsel for the accused should have been aware that the name of the complainant cannot be revealed in any record and that it is an offence to do so. Even the disclosure of name and designation as well as the present posting of the brother of the complainant is sufficient to disclose her identity which is also in contravention of provisions of Section 228A of IPC.

16. This Court notes that shockingly, in an earlier order of bail dated 12.10.2023, the learned Trial Court had also warned the learned counsel for disclosing the name of the complainant as well as the brother of the complainant, and had also written a letter to the Bar Council of Delhi to take action against him and to contemplate making guidelines in this regard. The learned Trial Court *vide* order dated 12.10.2023 had made the following observations on the conduct of learned counsel for accused:

“...Before parting with the final disposal of this bail application, some facts are required to be worth considering. In the bail application, Ld. Counsel for the applicant / accused disclosed that name and father's name of the prosecutrix in para no.2 of the application. In addition to that, the counsel further disclosed the name of the brother of the prosecutrix, who is stated to be a Judicial Officer in Delhi. Not only the name, the application disclosed the present posting and designation of the brother of the prosecutrix. The facts as revealed in the application could have been brought on record without name of the prosecutrix or her brother...”



17. This Court is astonished that despite such order being passed categorically, the counsel for the accused had the audacity to file the same annexure before this Court also, wherein he has revealed the name of the complainant as well as the brother of the complainant, his designation and the present place of posting. Additionally, he has also mentioned *sans* the name of the officer, his designation, relationship and place of posting in the body of the petition filed before this Court. Needless to say, it has been done with the ulterior motive to embarrass the judicial officer and tarnish the image of the complainant herein.

18. This Court is of the opinion that even if the complainant is the sister of a judicial officer, the same does not mean that just by being the sister of a judicial officer, she has lesser rights compared to other complainants in a criminal case to stand up and fight for herself and seek justice from the Courts of law. It will be a travesty of justice in case the victim fails to get justice for herself or is denied equal opportunities to seek justice only because one of her biological relatives is a judicial officer and is dispensing justice to others.

19. Moreover, a judicial officer by virtue of being a judicial officer does not waive his fundamental rights which are available to all other citizens of the country as also his social and private rights to look after and stand by his family. He also has a right as the biological sibling of the complainant/victim to stand by her and his family and taking action against any person who brings harm or disrepute to his family. In the present case, even if the judicial officer is the biological kin of the complainant herein, he has a right to stand by his biological sister, though nothing is apparent from the record that he is even personally



doing *parivi* in this case on behalf of the complainant or interfering with any judicial proceeding.

20. The contention of learned counsel for the applicant that due to the brother of the complainant being a judicial officer in Delhi, the accused is not getting justice from any Court, in absence of any evidence to support the same, has to be rejected out-rightly. The bail order passed by the learned Trial Court is well reasoned and cannot be found fault with. The earlier order of rejection of bail was passed by this Court in *Bail Appln. 1482/2022*.

21. The complainant in this case has been cheated and the present accused despite being the physical training instructor in school and teacher of the main accused as submitted by the IO had conspired with him to cheat the complainant and her family. To state that only because the brother of the victim is a judicial officer, the accused is not getting bail due to some influence without any iota of evidence in this regard is preposterous. Accepting this argument will be equivalent to accepting that a judicial officer in case of being victimized or being hurt or cheated as a family member, as in this case being the biological brother of the complainant, does not have fundamental right to get justice for himself, his family or his immediate kith and kin. The argument that the brother of the complainant was present during the marriage and therefore, the offence is not made out is equally meritless as his presence cannot absolve the accused of cheating him and his sister. By being a judicial officer, he does not have any extraordinary powers to have known that he was being cheated; rather it shows that he and his family have been a victim of cheating and trauma inflicted on his sister



and his family. The complainant too cannot have lesser rights than other victims only because she is the sister of a judicial officer. All other rights available to other victims in a criminal case will remain available to her and to her family. There cannot be a special category created for such victims or their families on the basis of their occupation or occupation of their family members. Rather than being a victim of any undue influence, as has been alleged by the present applicant/accused, the accused himself through one after another attempt by himself and his counsel have tried to tarnish the image of a judicial officer and embarrass him by disclosing his identity repeatedly despite being warned by the learned ASJ concerned.

22. The allegations at this stage as elaborated in the preceding paragraphs reveal serious and grave allegations against the present accused as well as the co-accused. The co-accused has targeted innocent women and the present accused in this case has been his close associate to help him succeed in his nefarious design of misguiding the family of the complainant and leading her to get married to him and extracting huge amount of money to his own and the bank account of the present accused for which evidence is on record. Such accused persons need to be dealt with a stern hand so that if granted bail, they will not indulge in similar activities of spoiling lives of other women.

23. This Court notes that in India, arranged marriages are still an entirely family driven decision for their daughters, and the family relies heavily on assurances given by the friends and relatives of the prospective groom. Though, it was also argued by the learned counsel for the applicant that the applicant had already disclosed about the



character of the main accused to the brother of the complainant, the record however reveals that this argument is contrary to the stand taken by the applicant in his previous applications before the learned ASJ concerned. Moreover, as also observed by the learned ASJ, it is highly unlikely that the complainant's family will proceed with her marriage with the co-accused despite knowing about his marital status and antecedents.

24. This Court also takes note of the fact that the learned Trial Court has also observed in its order dated 12.10.2023 that at the time of arguments on charge, the learned counsel for the accused had argued that the present accused was not aware about the marital status of the co-accused and had bonafidely attended the *roka* ceremony. This Court notes that the father of the complainant has categorically stated in his statement under Section 161 of Cr.P.C. that the applicant/accused was the only member from the side of co-accused in the *roka* ceremony and that he had informed the parents of the complainant before the *roka* ceremony that accused was unmarried.

25. The charges against the present accused have already been framed, and the complainant is yet to be examined before the learned Trial Court. The allegations against the applicant/accused are very grave and serious in nature. The apprehension of threatening and influencing the material witnesses cannot be completely ruled out at this stage.

26. Additionally, this Court while dealing with this case and argument raised by the learned counsel for the present applicant/accused, and having gone through the pleadings, and



annexures filed with the petition, notes with dismay that there have been persistent attempts by the accused and his counsel to disclose the identity of the brother of the complainant, and complainant which is in the teeth of Section 228A of IPC.

27. The counsel for the accused and the accused were well conversant with the order of the learned Trial Court dated 12.10.2023, however, they have been persistent in filing annexure-E mentioning the name of the brother of the complainant and the complainant. Even mentioning the name of her brother would necessarily lead to disclosure of the identity of the complainant.

28. Similarly as an accused cannot be denied justice in case a judicial officer or his family member is a complainant in a criminal case, the judicial officer and his family too cannot be denied justice in case, they are victims, as it will amount to denying fundamental, private and social rights to a judicial officer and his family which are otherwise available to other citizens and persons of the community. Being a judicial officer should not result in denial of justice to him or his family in his individual capacity and be merely dismissed as occupational hazards. Only because the accused/applicant has failed to secure the desired order of bail from a Court, it cannot authorize him to make a deliberate attempt to scandalize a judicial officer and shake the confidence of the litigating community.

29. Judges like most other people of the community care about the reputation to the extent that it is held as an important social and professional asset. By disclosing his identity repeatedly, it is the accused who is trying to take advantage of a judicial system where the



judicial officers seldom speak openly and publicly for themselves for fear of loss of reputation. To suggest that since the person cheated is kin of judicial officer and if bail is not granted, it would amount to taking sides in judicial system will amount to judging judicial system with a myopic eye and suggest that a judicial system is so fragile that it would take sides and not do justice. To take a contrary view can also be seen to amount to unjustifiably suspecting a person of interference due to his occupation without any evidence and would result in doing injustice to him, in a zeal to appear just.

30. This Court notes that there are practice directions issued by this Court *vide* order dated 04.10.2023. The directions were issued in compliance of the directions passed by this Court in *Bail Application No. 3635/2022* titled as '*Saleem v. The State of NCT of Delhi and Anr.*' to ensure that the identity of victims of sexual assault is not disclosed in the petitions.

31. Further, **the Registry in these circumstances, is also directed to ensure that henceforth** in any petition/applications etc. filed in cases involving sexual offences, a certificate/note be annexed with the first page of the petition by the counsel for the petitioner/applicant certifying that the name of the complainant/victim or any other name etc. has not been mentioned or divulged either in the body of the petition or in any of the annexures filed along with it which will divulge the identity of the victim. This has been necessitated since despite their being notification by the Central Government, judgments of the Hon'ble Apex Court and practice directions issued by this Court in past, to circumvent the same, an annexure was filed alongwith the petition.



32. As this Court has noted in many previous judgments, guidelines are born out of situational necessities for better and complete administration of justice, one more guideline is born in this regard, in this judgment.

33. With regard to the present case, Registry is directed to immediately mask the name of the victim and the judicial officer in annexure - 'E' and particulars about the judicial officer mentioned in para 6 of the grounds of present bail application.

34. Accordingly, the present bail application stands dismissed.

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

36. Copy of this judgment be forwarded to the learned Registrar General of this Court for necessary action and compliance.

37. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 24, 2024/at