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

% **Date of Decision: 08.01.2024**

+ **BAIL APPLN. 9/2024**

MANISH NAYAK

..... Petitioner

Through: Ms. Usha Pandey, Advocate
(through VC) along with Mr.
Vedant Kulshrestha, Advocate.

versus

STATE GOVT. OF NCT OF DELHI & ANR. Respondents

Through: Mr. Satish Kumar, APP for the
State with SI Rajnandini, P.S.
Paharganj.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. (ORAL)

1. The present application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the applicant seeking grant of regular bail in case FIR bearing no. 446/2022, registered at Police Station Paharganj, Delhi for the offences punishable under Sections 376/328/313/506 of the Indian Penal Code, 1860 ('IPC').
2. Issue notice. Mr. Satish Kumar, learned APP accepts notice on behalf of State.
3. Briefly stated, the facts of the present case are that on the basis



of a complaint lodged by Ms. 'X' wherein she has levelled allegations against the applicant of sexual intercourse and sexual assault, the present FIR was registered under Sections 376/328/313/506 of IPC on 06.11.2022. The complaint/victim has further alleged that on the false promise of marriage, the applicant, who had met her through Facebook, had taken her to a hotel at Paharganj and had committed sexual assault upon her. Thereafter, without her consent, he had made physical relations with her on many occasions. In year 2020, she had become pregnant due to this relationship and without her consent, the accused herein had administered some medicine in her food, due to which she had suffered miscarriage. Also, the accused had duped her of Rs.90,000/- which she had transferred in his account through bank transactions and by payment in cash. She had also alleged that he had kept on exploiting her physically on false pretext of marriage. On 31.07.2022, he had refused to get married to her but had threatened that she should continue to have physical relations with her. He had also told her that he has her inappropriate photographs and videos and in case, she will not accede to his demands, he will circulate them through social media. Under this threat, he had forced the complainant to have physical relations with him and despite her several requests, he had not deleted her objectionable photographs and videos. Thereafter, he had also demanded Rs.2,00,000/- for deleting the videos and had asked her to concede to his demand for physical relations before he will delete the videos and the photographs. On this pretext, he had again called her to a hotel on 09.10.2022 where he had made her



drink water laced with sedatives. Taking benefit of the same, he had developed physical relations with her and thereafter taken her wallet and cash with her. It is alleged by the complainant that the applicant has been continuously threatening her to give Rs.2,00,000/- to him, failing which he will circulate her inappropriate videos and photographs.

4. Learned counsel for the accused/applicant argues that it is a case of pure consensual relationship and that the present complaint has been lodged to falsely implicate the applicant in the present case. It is stated that being in a relationship, both accused and the complainant used to make small amount of money transfers to each other and the complainant was not forced to transfer any money to the applicant. It is stated that the applicant has been in judicial custody since 18.11.2022 and chargesheet has already been filed. Therefore, it is prayed that the applicant be enlarged on regular bail.

5. Learned APP for the State, on the other hands, argues that the allegations against the applicant are grave and serious in nature. It is submitted that applicant had raped the complainant on several occasions on false pretext of marriage and had also prepared inappropriate videos and photographs of her, without her consent, and one such video was also recovered from the mobile phone of applicant. It is stated that complainant has yet not been examined before the learned Trial Court and therefore, this bail application be rejected.

6. This Court has heard arguments addressed by learned counsel for the applicant as well as learned APP for the State, and has gone



through the case file.

7. Having considered the records of the case including the statement of the complainant recorded under Section 164 Cr.P.C, this Court is of the opinion that the complainant herein has levelled serious allegations against the accused/applicant, that he had not only committed sexual assault upon her, but had also prepared her inappropriate videos and photographs, which he had used for threatening and blackmailing her. There are serious and specific allegations that on pretext of deleting those videos and photographs, the applicant had again called her to a hotel where she was sexually assaulted. As alleged, the applicant had also been demanding Rs. 2 lakhs from the complainant for deleting her inappropriate photographs and videos, which were in possession of the applicant.

8. There are specific and serious allegations that when the complainant had conceived due to the physical relations, which were forced upon her on false pretext of marriage, the applicant had given her some medicines due to which she had suffered abortion and had undergone immense trauma and pain. The applicant has also extorted Rs. 19,000/- from the complainant on one pretext or the other, part of which has been paid online and part of it paid in cash.

9. Though chargesheet stands filed in the present case, the trial is yet to commence. The accused herein has also been threatening the complainant and one inappropriate video of the complainant has also been recovered from the mobile phone of the accused. His mobile phone has been sent for FSL examination to recover other deleted videos and photographs. Thus, considering the overall facts and



circumstances of the case and seriousness of the allegations, this Court does not find it a fit case to grant regular bail to the accused/applicant, at this stage.

10. Accordingly, the present application stands dismissed.

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

12. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 8, 2024/zp