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

+ **BAIL APPLN. 3467/2024**

SHUBHAM

.....Petitioner

Through: **Mr. Ranjan Kumar, Advocate**

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: **Mr. Raghuinder Verma, APP for the State.**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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19.11.2024

1. The instant bail application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the petitioner/applicant seeking grant of anticipatory bail in FIR No. 231/2024 registered at Police Station - Govind Puri, Delhi for the offences punishable under Sections under Sections 376D/506/328 of the Indian Penal Code, 1860 (hereinafter "IPC").

2. Learned counsel appearing on behalf of the applicant submitted that the applicant is an innocent person and has not committed any offence as alleged in the FIR. It is submitted that the applicant was not even present in Delhi at the time when the alleged incident took place. Moreover, as per the call records available, it cannot be established that the applicant came to Delhi at the time of the alleged incident.



3. It is submitted that the MLC report which has been filed by the respondent-State does not suggest any allegations against the applicant for the offences punishable under Section 376D of the IPC. It is also submitted that the applicant joined the investigation as and when required by the investigating officer. It is further submitted that the applicant has no criminal antecedents and undertakes to abide by all the terms and conditions imposed upon him by this Court while granting the anticipatory bail.

4. Therefore, in view of the foregoing submissions, it is prayed that the applicant may be granted anticipatory bail.

5. *Per contra*, Mr. Raghuinder Verma, learned APP appearing on behalf of the State submitted that the applicant is charged for the heinous crime which is punishable under Section 376D of the IPC as the prosecutrix was raped by four people. It is submitted that as per the statement recorded under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter “CrPC”), the victim has supported the prosecution story. With respect to the same, he has placed the Case Diary of the aforesaid FIR before this Court and referred to the abovementioned statement of the prosecutrix.

6. It is also submitted that the car, in which the alleged incident took place, has been recovered. It is further submitted that as per the allegations in the FIR, the accused persons had cut the tongue of the prosecutrix so that she will be unable to speak and she was beaten badly by the accused persons including the applicant herein. It is also informed to this Court that the bail of the co-accused Mr. Sahil has been already dismissed by this Court on 12nd November, 2024.

7. It is submitted that the statement of the prosecutrix recorded under Section 164 of the CrPC as well as the MLC and other materials on record



indicate the commissioning of the offence by the applicant herein for the offences punishable under Sections 376D/506/328 of the IPC, therefore, he is not entitled for any concession. It is further submitted that the custodial interrogation of the applicant is required for collecting further information.

8. Therefore, instant bail application, being devoid of any merits, is liable to be dismissed.

9. Heard learned counsel appearing on behalf of the parties and perused the record.

10. The bone of the petitioner's contention is that the offense alleged against him cannot be made out as he was not in Delhi at the relevant time and that the MLC does not suggest any incriminating evidence against the present applicant.

11. It is a trite law that while granting anticipatory bail to the accused, the ramifications of such liberty should not compromise the veracity of the investigation. The said principle was encapsulated by the Hon'ble Supreme Court in the case of **Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565**, wherein, it was emphasised that the Courts, while granting anticipatory bail, have to be careful and meticulously examine the facts of the case. Further, the discretion to grant bail must be exercised on the basis of the material available before the Court.

12. The said judgment was also followed by the Hon'ble Supreme Court in **Bhadresh Bipinbhai Sheth v. State of Gujarat, (2016) 1 SCC 152**, wherein, the Hon'ble Court also observed that it is for the Trial Court to arrive at the findings as to whether the offence alleged stands proved or not on the basis of evidence. Further, at the stage of deciding anticipatory bail, it is only to be seen by the Court that if released on bail, whether there is any



possibility of the accused tampering with the evidence or influencing witnesses, etc.

13. This Court has perused the Case Diary and the statement given by the prosecutrix under Section 164 of the CrPC along with the status report. After perusing the contents of the status report, it is an admitted fact that the applicant is charged for a heinous crime and the statement given by the prosecutrix under Section 164 of the CrPC is supporting the version which has been alleged in the FIR. It is also an admitted fact that the investigation is still at the nascent stage and considering the gravity and the complexities of the allegations levelled by the prosecutrix, this Court is of the considered view that it is not a fit case to grant anticipatory bail at this stage.

14. Therefore, taking into consideration the law discussed herein above as well as the peculiar facts and circumstances of the instant case and the role of applicant/accused, this Court is of the considered view that the allegations levelled by the prosecutrix against the present applicant are grave and serious in nature. Thus, this Court is not inclined to grant anticipatory bail to the applicant when the investigation is at a nascent stage and custodial interrogation of the applicant is required by the investigating agency.

15. In view of the above facts and circumstances, the instant bail application, being devoid of any merits, is dismissed along with the pending applications, if any.

CHANDRA DHARI SINGH, J

NOVEMBER 19, 2024

gs/ryp

[Click here to check corrigendum, if any](#)