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

+ **BAIL APPLN. 3505/2024**

JASWANT KUMAR RAO

.....Petitioner

Through: **Mr. Ravinder Kumar and Ms.
Santosh Dixit, Advocates**

versus

THE STATE (GOVT. OF NCT OF DELHI)Respondent

Through: **Mr. Satish Kumar, APP for State
Insp. Abhijeeta Shingh along with SI
Neetul, P. S. Geeta Colony**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER
27.09.2024

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1. The instant application under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the petitioner/applicant seeking grant of anticipatory bail in FIR No. 338/2024 for the offence punishable under Sections 376D/506 of the Indian Penal Code, 1860 registered at Police Station Geeta Colony, New Delhi.

2. Learned counsel appearing on behalf of the applicant submitted that *vide* order dated 3rd September, 2022, the learned Trial Court dismissed the application for anticipatory bail filed by the applicant. It is submitted that he has been falsely implicated in the instant case as he has not committed any offence as alleged in the FIR. It is further submitted that there are no specific allegations levelled against the applicant and to support her



arguments, she referred to the paragraph no. 2 of the status report which is reproduced as under:

“During investigation Mr. Vijay, the witness in this case, has produced the alleged video in a pen drive with certificate u/s 63 BSA wherein accused Raj could be seen committing the offence and one person who is not visible in the video was capturing the video of offence. Undersigned recorded the statement of the complainant u/s 180 BNSS after showing the video to the victim in which the victim stated that the person who has committed rape with her is Raj s/o Harikesh r/o A 167, Gali no 5, Rani Garden, Delhi and Jaswant S/o Rav Sudhar Ram R/O A-144, Gali no. 4, Rani Garden Delhi was capturing the video. Pen drive which is containing the alleged video has been seized and sent to FSL Rohini for examination.”

3. Learned counsel appearing on behalf of the applicant submitted that the complainant/victim is pressurising the applicant to compromise with her brother who were charged for the murder case, therefore, the entire story has been cooked up by the victim/family of the victim only for the purpose of pressurising the applicant. Therefore, in view of the same, it is prayed that the applicant may be granted anticipatory bail.

4. *Per contra*, learned APP appearing on behalf of the State vehemently opposed the instant application and submitted that the anticipatory bail shall not be granted to the applicant as he is charged under heinous crimes and was involved in recording of the video with the other co-accused and raping the victim. It is further submitted that they have purposely viraled the video of the victim through Whatsapp messages and have sent the same to several people.

5. Learned APP further submitted that the applicant is not cooperating with the investigation as he never joined the investigation. It is further submitted that the NBW has already been issued against the applicant.



6. Heard learned counsel appearing on behalf of the applicant and perused the contents made in the FIR, the status report as well as the order passed by the learned Trial Court vide order dated 3rd September, 2024.

7. The applicant herein has been apprehended for the offence of recording the video of the commission of rape upon the victim by his co-accused and further threatening the victim of circulating the same in order to make it viral.

8. Upon perusal of the status report, it has come to the knowledge of this Court that the applicant has been purposely avoiding to join the investigation in order to evade the arrest as he has not been living at his residential address since 6-7 months and thus, a notice under section 35(3) of the BNSS has been served upon the applicant. Moreover, it is an admitted fact that the NBW has already been issued against the applicant and it contains specific allegation that the applicant has failed to join the investigation despite several notices.

9. At this juncture, this Court deems it necessary to note that the Hon'ble Supreme Court in ***Srikant Upadhyay v. State of Bihar, 2024 SCC OnLine SC 282***, highlighted the fundamental principle that anticipatory bail is not a right but an exceptional remedy, and therefore, denied the relief of anticipatory bail to the accused, in view of the fact that NBWs are pending against him.

10. Taking the aforesaid law as well as the peculiar facts and circumstances of the case into consideration, this Court is of the considered view that the applicant is involved in the commission of a heinous crime against a woman and the allegations levelled against him are serious in nature, thus, this Court cannot take the same leniently.



11. It is a settled position of law that the relief of anticipatory bail shall be restricted to only exceptional circumstances and therefore, in view of the fact that the applicant is not joining the investigation, this Court is of the view that in case the applicant herein is granted anticipatory bail, it may cause hindrance to the necessary investigation of the offence which is serious in nature.

12. Therefore, considering the gravity of offence as well as the conduct of the applicant in purposely evading the investigation, this Court finds no merit in the instant application for granting the anticipatory bail to the applicant as the applicant has failed to make out any case with respect to the same.

13. Accordingly, the instant application stands dismissed.

CHANDRA DHARI SINGH, J

SEPTEMBER 27, 2024

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Click here to check corrigendum, if any