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

\+ BAIL APPLN. 4176/2024

LOVELY .....Petitioner

Through: Mr. Vishal Meghwal and Mr.Kamlesh Kumar, Advocates.

versus

STATE OF NCT OF DELHI & ANR. .....Respondents

Through: Ms. Meenakshi Dahiya, APP for the State with IO SI Priya with victim in person.

**CORAM:**
**HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

**O R D E R**

% **23.12.2024**

1. The present application has been filed under Section 439 Cr.P.C. seeking regular bail in case FIR No. 328/2024 dated 29.05.2024 registered at Police Station Palam Village under Section 420 IPC.

2. Briefly stated, the case of the prosecution, as per the status report, is that Smt. Sanita, a constable with the Delhi Police, then posted in the Delhi Metro Unit, filed a complaint alleging fraud and theft by the accused petitioner, Lovely. According to the complainant, approximately a year earlier, she had purchased a VIVO V23 Pro mobile phone on EMI for her brother Subhash in Alwar, Rajasthan. However, due to financial constraints, she was unable to make timely EMI payments. Subsequently, the accused petitioner, identifying himself as an employee of Bajaj Finance from Jodhpur, contacted her from the number 6350633530 and

offered assistance in settling her dues. Over time, the petitioner established contact with the complainant and her husband, extending offers of financial assistance and a potential job at Bajaj Finance. In July 023, the petitioner claimed that his uncle was critically ill and required Rs.2,00,000 for treatment. It has been alleged that after consulting her husband, the complainant lent Rs.1,50,000 in cash to the petitioner at Dhaula Kuan Bus Stand. Shortly thereafter, the accused sought additional funds, and on 01.08.2023, the complainant lent him another Rs.1,50,000 at Rajiv Chowk. In December 2023, it was alleged that the petitioner informed the complainant that his uncle had passed away and that his father was now unwell, requesting Rs.2,00,000 for further expenses, which was provided by the complainant at Palam Flyover, for which he gave her a blank cheque as security.

3. The complainant alleged that the petitioner assured the complainant that he would repay the borrowed amounts and also facilitate an additional loan for her. However, it has been alleged that during a meeting on 05.02.2024, the accused misused her mobile phone to take out an unauthorised loan of Rs.9,90,000 from her Axis Bank account. He later claimed this was an accidental approval and, on 06.02.2024, deposited Rs.5,00,000 as partial repayment into her account. It has been alleged that in the meanwhile, the complainant had purchased an iPhone 15 Pro Max on EMI, but during a subsequent meeting with the petitioner, the complainant discovered that her phone, charger, earbuds, and ATM card were missing from her bag, which the petitioner admitted to taking as a gift for his sister. Thereafter, on 08.02.2024, the complainant noticed that Rs.50,000 had been transferred from her petitioner’s account and that

Rs.40,000 was withdrawn using her ATM card in Jodhpur. She reported the matter, alleging theft and fraud totalling Rs.6,39,500.

4. During the inquiry, the IO issued a notice to the UIDAI Regional Office to verify the Aadhaar card associated with Lovely (Aadhaar number 4870-5937-6690). However, the response received provided no significant information. Subsequently, on 12.03.2024, the IO issued notices under Section 91 Cr.P.C. to the managers of Equitas Bank, Kotak Mahindra Bank, and SBI, requesting account details, KYC documents, and bank statements. The investigation revealed that the Kotak Mahindra Bank account was registered in the name of Mamta, while the Equitas Bank and SBI accounts were both registered in the name of petitioner. The Investigating Officer, SI Priya submits that the complainant initially filed a complaint at Police Station Delhi Cantt. on 20.02.2024. This complaint was later transferred to Police Station Palam Village on 29.05.2024.
5. Learned counsel for the petitioner submits that in the initial complaint the allegations pertained solely to cheating in financial transactions and even in the subsequent complaint filed on 14.06.2024, allegations of extortion and blackmail were raised. It has been submitted that in either of the complaints, there were no allegations of rape. It was only in the complainant's statement recorded under Section 164 Cr.P.C. on 27.07.2024 that allegations of rape were made for the first time. Learned Counsel submits that the relationship between the complainant and the petitioner was consensual.
6. Learned APP for the State has vehemently opposed the bail application and submits that WhatsApp chats between the victim and the accused

reveal financial transactions between them. Furthermore, it was submitted that the victim's statement under Section 164 Cr.P.C. contains specific allegations of rape against the petitioner

7. The Court has considered the aforesaid submissions. It is no longer *res-integra* that at the stage of deciding the bail, the Court has only to proceed with a prima facie case and the meticulous appreciation of evidence is not permissible. The appreciation of evidence at this stage may prejudice either of the parties and therefore the Court has only to look at the prima facie case. Admittedly,in the first complaint made on 20.02.2024 with Police Station Delhi Cantt., no allegations of rape were made and it was only a case of cheating in financial transactions. The FIR lodged on 29.05.2024 was also only under Section 420 IPC. Later on, after the expiry of two months in the statement under Section 164 Cr.P.C. allegations of rape were made. The statement of the prosecutrix under Section 164 Cr.P.C. shall be appreciated at an appropriate stage by the learned Trial Court. The petitioner has been in custody since 01.07.2024 and the investigation is already complete.

8. In the peculiar facts and circumstances, the petitioner is admitted to regular bail upon his furnishing personal bond in the sum of Rs. 20,000/- with one surety of the like amount to the satisfaction of the concerned learned trial court, subject to the verification of address and subject to the following further conditions:

    1. the petitioner shall regularly appear before the IO/trial court as and when directed;
    2. the petitioner shall not directly or indirectly make any inducement, threat, intimidate or tamper with any person acquainted with the

facts of the case;

3. the petitioner shall remain available on the address, to be given to the IO and shall not leave the country without the permission of the learned Trial Court;
4. In case of change of residential address and/or mobile number, the petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.

9. The present petition and pending application, if any stands disposed of.

**DINESH KUMAR SHARMA, J**

**DECEMBER 23, 2024**

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