



\$~69

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.REV.P. 1341/2024, CRL.M.A. 36622/2024 & CRL.M.A.
36623/2024

KUNAL BAJAJ

.....Petitioner

Through: Mr. Giriraj Subramaniam, Mr. Joy
Banerjee and Ms. Ravi Pathak, Advs.
versus

STATE OF NCT OF DELHI THROUGH SHO & ANR.

.....Respondents

Through: Mr. Satish Kumar, APP for the State
with SI Sanjeet Rana, PS S.J.
Enclave.
Mr. Ramakant Sharma, Mr. Ravi
Avasthi, Mr. Manish, Mr. Prateek
Avasthi and Ms. Sara Singh, Advs.
for Complainant.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
06.12.2024

%

This matter has been transferred from the Court of Hon'ble Mr.
Chandra Dhari Singh since the Bench is on leave.

CRL.REV.P. 1341/2024

1. This petition has been filed for setting aside order of arrest passed by the MM *vide* order dated 25th November 2024, in proceedings arising out of an FIR No.566/2013 under Section 498A/406 IPC. The trial in this matter commenced in 2014. When the stage came for the recording of statement of the accused/petitioner under Section 313 Cr.P.C., on 05th October 2024, the accused was not present.



2. It was recorded in the said order that it was the fourth consecutive date on which the accused had remained absent. It had been specifically directed that the accused had to appear on that day so that statement could be recorded, considering that it was one of the oldest cases pending before the JMFC, Mahila Court, South District, Saket. The court specifically noted that every effort has been made to expedite the trial, however, the court was again constrained to defer the matter and fixed it for 25th November 2024. Notably, this order was not filed as part of the petition and has been handed over by the counsel for the complainant, who appears in Court.

3. On 25th November 2024, while the accused appeared in-person at 10:00 a.m. with his counsel, at 12:55 P.M, when the matter was called out again, it was noted that “the accused had run away from the Court”. Counsel was asked why the accused was not present and it was stated that the accused had vomited and had gone home. Accordingly, non-bailable warrants were issued and proceedings were fixed for 10th December, 2024.

4. Along with the petition, the medical documents have been filed including discharge summary from Fortis Hospital, showing that the accused had an episode of vomiting and headaches since morning and, therefore, medication was prescribed to him. The receipt of the hospital has also been appended. On this basis, counsel for the petitioner states that there was no delinquency on the part of the petitioner to appear in Court and he had to leave the Court because he was unwell.

5. Considering that the matter is one of the oldest cases before the Mahila Court, the completion of the recording of evidence will not brook any delay. Counsel for the petitioner states on instructions of the petitioner that he undertakes to appear before the Court on 10th December, 2024 and



on each subsequent date, as is notified by the Trial Court.

6. Based on this undertaking and the counsel's submission, the non-bailable warrants are set aside with directions that the petitioner shall appear before the Mahila Court on 10th December, 2024.

7. Additionally, costs of Rs.20,000/- shall be paid to the counsel for the complainant, by the petitioner, considering the facts and circumstances as noted above. The costs shall be paid within the next couple of days.

8. Any attempt to subvert or delay the trial and prolong it by either the petitioner or his counsel will invite further strictures from this Court.

9. Petition is disposed of. Pending applications, if any, are also disposed of as being rendered infructuous.

10. *Dasti.*

11. Order be uploaded on the website of this Court.

ANISH DAYAL, J

DECEMBER 6, 2024/MK