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

+ **BAIL APPLN. 577/2025 & CRL.M.(BAIL) 274/2025-**

DR. SANJAY KUMAR

.....Petitioner

Through: Mr. Neeraj Shekhar, Mr. Shyamal Kumar, Ms. Jaspreet Singh Rai, Mr. Ravi Kumar, Mr. Rohit Nagpal, Mr. Krish Mahajan, Mr. Ankur Singh and Mr. Devender Singh, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Raghuinder Verma, APP for the State with Inspector Sachin Kumar Verma, PS-Krishna Nagar.
Victim in person.
Mr. Abhishek Chabra, Advocate
(Through VC) for victim.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

24.02.2025

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1. The instant application under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") [earlier under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter "Code")] has been filed on behalf of the applicant seeking grant of anticipatory bail in FIR bearing no. 0674/2024 registered at Police Station - Krishna Nagar, Delhi for offences punishable under Sections 376/406 of the Indian Penal Code, 1860 (hereinafter "IPC") and Section 66E of the Information Technology Act, 2000 (hereinafter "IT Act").
2. Mr. Neeraj Shekhar, learned counsel appearing on behalf of the



applicant submitted that the applicant is a qualified doctor and is currently practicing and residing in the United States of America (USA). It is submitted that before moving to the USA, the applicant was residing in Noida, Uttar Pradesh and the prosecutrix was residing in Delhi.

3. It is submitted that the applicant and the prosecutrix met each other *via* an online dating site “Bumble” in September, 2018. It is submitted that the prosecutrix has represented herself as single and has not disclosed her actual age, wherein she was five years older than the applicant. It is submitted that the prosecutrix was not interested in forming friendship with the applicant, rather was interested in having a physical relationship with him.

4. It is further submitted that the applicant and prosecutrix entered into physical relationship only with the consent of the prosecutrix and, therefore, the allegations leveled against him by the prosecutrix for the commission of offence under Section 376 of the IPC is not made out.

5. It is submitted that the applicant and prosecutrix not only went to Thailand but also visited several places and hotels, wherein they made physical relations, however, the prosecutrix has never raised a complaint regarding the commission of rape to anyone in her family or to the police.

6. It is submitted that since the prosecutrix was solely interested in a physical relationship rather than a genuine friendship therefore, their interactions constitute a ‘consensual physical relationship’.

7. It is submitted that the petitioner has married his wife on 6th December, 2020 and has never entered into physical relationship with prosecutrix thereafter. It is submitted that the prosecutrix has threatened the entire family of the petitioner and demanded Rs.50 lakhs by sending a legal



notice dated 10th September, 2024, to his wife, which is appended as Annexure A-8 to the instant petition.

8. It is also submitted that the applicant has never leaked or sent any obscene pictures or videos of prosecutrix to anyone or uploaded the same on public domain and therefore, no offence under Section 66E of the IT Act is made out as alleged in the instant FIR. It is further submitted that it is incorrect to state that the prosecutrix was not aware about the marriage of the applicant as she has disclosed the said fact in the legal notice sent by her to the petitioner's wife.

9. It is submitted that there is also an unexplained delay of 18 months in lodging the instant FIR. Therefore, it is prayed that the applicant may be granted anticipatory bail.

10. On instructions, it is submitted that the applicant undertakes that he shall cooperate with the investigating agency as and when required and also undertakes to abide by any condition imposed upon him by this Court while granting anticipatory bail.

11. *Per Contra*, learned APP appearing on behalf of the State vehemently opposed the instant bail application and submitted that as per the investigation and the case diary placed before this Court for perusal, there are several videos, obscene pictures and messages between the petitioner and prosecutrix, which have been released on public domain.

12. It is submitted that the applicant has committed an offence which is serious in nature and, therefore, the Court may not give any concession of bail while granting anticipatory bail.

13. It is submitted that the applicant is not cooperating with the investigating agency and has never joined investigation, and therefore, non-



bailable warrants have already been issued by the Court concerned and investigating agency has already issued a Look-out Circular (hereinafter “LOC”) against the petitioner. In light of the same, it is prayed that the instant application may be dismissed being bereft of any merit.

14. The prosecutrix, who is present in person, submitted that the applicant has harassed her by posting their private messages, obscene videos and pictures on social media and the same has been sent to her colleagues. The applicant has deliberately made the said material public with an intention to defame her.

15. It is submitted that after the applicant’s marriage, the applicant made physical relations with her without disclosing the fact that he was already married in 2019. Furthermore, it is submitted that the applicant has been constantly threatening the prosecutrix even till date.

16. In view of the foregoing submissions, it is prayed that the instant application may be dismissed.

17. Heard learned counsel for the parties and perused the record, including the contents of the instant FIR and case diary, which were placed before this Court for perusal. This Court has also perused the e-mails exchanged between the parties and the alleged obscene pictures, which are part of the case dairy.

18. At this stage, it is relevant for this Court to understand the circumstances and factors which is required to be considered while granting anticipatory bail. Hence, it is pertinent to mention the case of ***Lavesh v. State (NCT of Delhi)*, (2012) 8 SCC 730**, wherein the Hon’ble Supreme Court observed that while granting anticipatory bail to the accused, the Courts must examine the gravity and magnitude of the allegations levelled



against him as well as other factors such as the previous conduct, antecedents, possibility of fleeing justice etc.

19. Adverting to the instant case, it is the case of the prosecutrix that she entered into physical relations with the petitioner on the pretext of false promise of marriage. Moreover, it is contended that her private pictures and messages have been uploaded in public domain by the applicant, thereby infringing her privacy.

20. Upon perusal of the contents of the instant FIR as well as the material placed before this Court, it is observed that the instant case involves serious offences of not only rape but also infringement of privacy of the prosecutrix punishable under Section 66E of the IT Act. The allegation that the applicant has released the said obscene pictures and messages on public platform and sent to her colleagues is serious in nature as the same violates the prosecutrix's right to privacy.

21. Furthermore, it is observed that the applicant has not been cooperating with the investigation in the instant case and non-bailable warrants have already been issued against the applicant. Moreover, LOC against the applicant has also been issued as the applicant failed to join the investigation despite the efforts made by the investigating agency.

22. Therefore, considering the aforesaid facts and circumstances and law laid down by the Hon'ble Supreme Court, it is observed that the offences levelled against the applicant are serious in nature. Moreover, there is a high probability of the applicant attempting to induce witnesses and tamper with the evidence, if granted anticipatory bail given the sensitivity of the instant case. Furthermore, the applicant's conduct in non-cooperating with the investigating agency and LOC being opened against the applicant



necessitate his custodial interrogation.

23. In light of the gravity of allegations levelled against the applicant, contents of the FIR, material placed before this Court *via* case diary as well as his failure to cooperate in the investigation, this Court is not inclined to grant anticipatory bail to the applicant.

24. In view of the above facts and circumstances, this Court does not find any merit in the instant petition and accordingly, the instant petition is dismissed along with the pending applications, if any.

25. It is made clear that the observations made herein, touching upon the merits of the case, are purely for the purpose of deciding the question of granting of anticipatory bail, which shall not be construed as an expression of final observations on the merits of the present case.

CHANDRA DHARI SINGH, J

FEBRUARY 24, 2025

NA/mk/kj

Click here to check corrigendum, if any