



\$~59

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

BAIL APPLN. 2460/2025 & CRL.M.A. 19376/2025

MANISH JAIN

.....Applicant

Through: Mr. Saurabh Soni, Mr.
Pavan Kumar and Ms.
Mannant Singh Kahai,
Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Sunita, PS Shahdara.
Mr. Gaurav Kochar, Mr.
Vishal and Mr. Jainuddin,
Advs. for the complainant.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

%

09.07.2025

1. The present application is filed seeking pre-arrest bail in FIR No. 172/2025 registered at Police Station Shahdara, Delhi for the offences under Sections 376/506 of the Indian Penal Code, 1860 ('IPC').

2. Briefly stated, the applicant and the prosecutrix/complainant met each other in the month of January, 2022, whereafter they exchanged numbers and started talking to each other over the phone. The applicant is stated to have offered the complainant to start a business of linen in the month of September, 2022, to which the complainant agreed. The complainant alleged that the applicant, on the pretext of the business, started to gather personal information about the complainant and thereafter blackmailed her about revealing her



past mistakes to everyone. It is alleged that the applicant forced the complainant to establish sexual relations with him and allegedly captured videos and photos of her indulging in sexual activities.

3. It is alleged that the applicant continued to blackmail the complainant for about 3 years and out of fear of being a disgrace to her family, she satisfied all his monetary demands and allegedly gave an amount of ₹4,77,000/- and some gold articles to him.

4. It is alleged that on 22.03.2025 the applicant had publicly assaulted the complainant as well as threatened her family members. It is further alleged that on 25.03.2025, the complainant attempted suicide, however, her husband stopped her and thereafter she narrated the entire incident to him, whereafter, he contacted the maternal uncle of the applicant as an attempt to settle the dispute between the applicant and the complainant. On 27.03.2025, the applicant is stated to have made a written admission, undertaking to not repeat his actions, however, it is alleged that the applicant again started harassing the complainant by messaging her husband.

5. The application filed by the applicant seeking pre-arrest bail was dismissed on an earlier occasion by the learned Trial Court *vide* order dated 30.06.2025.

6. The learned counsel for the applicant submits that the applicant and the complainant were in a voluntary romantic relationship which is evident from the gifts given by the applicant to her over the years as well as from the numerous romantic photographs.

7. He submits that the applicant has neither circulated any



sexually explicit video or photograph of the complainant nor is there any evidence regarding the alleged circulation.

8. He submits that the learned Trial Court erred in dismissing the pre-arrest bail application of the applicant on the basis of the letter dated 19.04.2025. He submits that the letter in question was written by the applicant expressing the humiliation he had suffered at the hands of the complainant as well as her relatives on 27.03.2025.

9. He further submits that the letter in question had been sent to only those persons who were aware of the facts of the case and that the letter is mere clarificatory.

10. *Per contra*, the learned Additional Public Prosecutor ('APP') for the State vehemently opposes the grant of any relief to the present applicant. He submits that specific allegations have been made against the applicant.

11. He further submits that the applicant had allegedly made another threatening call to the family of the complainant on 06.07.2025.

12. The learned counsel for the complainant also opposes the grant of any relief to the present applicant.

13. I have heard the learned counsel for the parties and perused the case diary.

14. It is to be kept in mind that the investigation is currently at a nascent stage. The considerations governing the grant of pre-arrest bail are materially different than those to be considered while adjudicating the application for grant of regular bail, as in the latter case, the accused is already under arrest and substantial investigation is carried out by the investigating agency.

15. It is trite law that the power to grant a pre-arrest bail under



Section 438 of the CrPC is extraordinary in nature and is to be exercised sparingly. Thus, pre-arrest bail cannot be granted in a routine manner. The Hon'ble Apex Court, in the case of **State of A.P. v. Bimal Krishna Kundu : (1997) 8 SCC 104**, held as under:

“8. A three-Judge Bench of this Court has stated in Pokar Ram v. State of Rajasthan [(1985) 2 SCC 597 : 1985 SCC (Cri) 297 : AIR 1985 SC 969] : (SCC p. 600, para 5)

“5. Relevant considerations governing the court's decision in granting anticipatory bail under Section 438 are materially different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal.”

9. Similar observations have been made by us in a recent judgment in State v. Anil Sharma [(1997) 7 SCC 187 : 1997 SCC (Cri) 1039 : JT (1997) 7 SC 651] : (SCC pp. 189-90, para 8)

“The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest.”

XXXX

XXXX

XXXX

12. We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour of granting anticipatory bail to the respondents. It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations involving well-orchestrated conspiracy, with a pre-arrest bail order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have absolutely no doubt that if the respondents are equipped with such an order before they are interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the



conspiracy. Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on “the career of millions of students”, learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order.”

16. It is the case of the applicant that he was in a voluntary romantic relationship with the complainant and has not circulated any sexually explicit video or photograph of the complainant in order to threaten her. However, it is not in disputed that the obscene photos and videos of the complainant have been found in the mobile phone of the applicant.

17. The written admission dated 27.03.2025 in the case diary, specifically notes that the applicant had promised to not only return the gold articles taken from the complainant but has undertaken to not misuse the personal data of the complainant as collected by him in any manner. In such circumstances, the learned Trial Court rightly noted that the present case does not appear to be one of a romantic relationship turned sour, and may be far more than that.

18. A perusal of the seizure memo dated 17.05.2025 reveals that the phone of the applicant contained several photos of the complainant of which some were her nude and semi-nude photographs. It is also stated as under:

“photos dated 13 June 2024 and 17 May 2024 contained some objectionable images of the complainant”.

19. In this regard, the learned Trial Court rightly observed that if the applicant had no intention to circulate the obscene photos



and videos of the complainant. There was no reason for him to preserve the same.

20. The argument of the applicant that the learned Trial Court erred in dismissing the pre-arrest bail application of the applicant on the basis of the letter dated 19.04.2025, is without any merit. This Court has also perused the case diary. A perusal of the letter dated 19.04.2025 of which the applicant is the undersigned, reveals that, although the applicant is trying to clarify the event that took place on 27.03.2025, it appears that that he has not only addressed the said letter to the relatives of the complainant, but has also admitted to having previously sent more letters to the relatives of the complainant including her in-laws. It is observed that the applicant is also stated to have made threatening calls to the family of the complainant as recently as on 06.07.2025.

21. Considering the allegations of extortion and threats to circulate the private photos of the applicant, it does not appear that the applicant has been falsely implicated in the present case.

22. It is settled law that the custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the CrPC [*State v. Anil Sharma : (1997) 7 SCC 187*]. Granting pre-arrest bail to the applicant would undoubtedly impede further investigation. An order of pre-arrest bail cannot be granted in a routine manner so as to allow the applicant to use the same as a shield.

23. The allegations made against the applicant are of a grave and serious nature. Despite the fact that the complainant is married, the applicant engaged in a physical relationship with her by allegedly blackmailing her on the pretext of ruining her image



in society.

24. It is evident that certain compromising photographs were collected during the investigation, and may be allegedly circulated to further humiliate and control the prosecutrix. In cases involving such serious accusations, it is imperative that law enforcement should be given a free hand and little play in the joint to investigate. Granting pre-arrest bail in this scenario could potentially hinder the investigation, as it might be used by the accused as a shield to evade justice.

25. In light of the above considerations, the present application is dismissed. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

JULY 9, 2025