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

+ **CRL.M.C. 8791/2023**

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.....Petitioner

Through: Mr. Garv Shingari & Mr. Sandeep
Banerjee, Advs.

versus

STATE OF NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Sanjeev Sabharwal, APP for the
State with SI Bharti Singh, PS-Aman
Vihar.

Ms. Shivani, Mr. Peeyush Kaushik
and Mr. Nishant Sharma, Mr. Kamlesh
Kumar Mishra, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

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01.09.2025

1. Petitioner is before this Court seeking setting aside of an order dated 04.10.2023 passed by the learned Trial Court whereby the learned Court had granted regular bail to the accused/ respondent no. 2 in the FIR No. 477/2023 dated 02.09.2023 registered under Sections 328, 354A, 376, 377, 506, 509, 34 of the IPC.
2. The petitioner/prosecutrix came into contact with the accused/ respondent, Vishal Maurya, through social media. On 17.05.2023, he invited her to Galaxy Hotel, Sector 22, Rohini, where, after administering an intoxicating substance in a cold drink, he took undue advantage of her condition and established physical relations under the false assurance of marriage.



2.1 Thereafter, on 20.05.2023, he again called the petitioner to a hotel and forcibly committed sexual intercourse, reiterating the promise of marriage. On 30.05.2023, he took her to a rented house in Jain Nagar, persuaded her to live with him, and promised court marriage after obtaining documents from his home. Despite her refusal to engage in physical relations before marriage, he continued to coerce and exploit her.

2.2 On 18.08.2023, the petitioner reminded him of his promise, whereupon he took her to Murthal, Haryana, again assuring marriage within days. On 22.08.2023, he claimed his family opposed the marriage and had sent him to Bhopal, but he continued making false assurances. On 25.08.2023, he again met her in Delhi, showed her documents for marriage, and assured marriage on 30.08.2023, continuing to exploit her on this pretext.

2.3 On 30.08.2023, the accused came to the rented house with his mother, brother Sushant, and his uncle (an SI in Delhi Police). Instead of solemnizing the marriage, they misbehaved with the petitioner, threatened her to vacate the premises, and warned of dire consequences. Subsequently, 3–4 associates also threatened her at Sector 17, Rohini.

2.4 Having realized she was deceived, the petitioner lodged a complaint at P.S. Aman Vihar on 02.09.2023. FIR No. 0477/2023 under Sections 328, 376, and 506 IPC was registered, and the accused was arrested. A subsequent FIR No. RHNBP000628 dated 16.09.2023 under Section 379 IPC was also registered concerning theft of her belongings.

2.5 On 04.10.2023, the accused filed a bail application under Section 439 CrPC before the Ld. ASJ-II/Special Judge NDPS, Rohini, which was allowed. The order was passed without ensuring effective hearing of the petitioner/prosecutrix or service of the bail application upon her.



2.6 The petitioner submits that the accused never intended to marry her and continuously exploited her under false promises, coupled with threats by him and his family. The Ld. Court failed to consider these facts and the subsequent FIR. Hence, the present petition.

3. In light of the above facts pleaded in petition, learned counsel for the Petitioner argues that Respondent No. 2 (the accused) deliberately deleted the social media chats between himself and the prosecutrix/petitioner. Despite this deliberate act, he was granted regular bail in a case involving offences under Sections 376 and 354A IPC, both of which are of a grave nature. This deletion indicates a strong likelihood of the accused tampering with evidence, influencing prosecution witnesses, and obstructing the course of justice.

3.1 Counsel further contends that the Sessions Court erred in granting bail without providing an effective hearing to the prosecutrix. Copies of the bail application and other connected applications were never supplied to her, thereby depriving the complainant of her right to oppose the bail.

3.2 It is argued that the prosecutrix was subjected to sexual assault while unconscious. The accused exploited her condition and forcibly established physical relations with her on the false pretext of marriage. Such conduct amounts to rape under law and demonstrates his dishonest intention from the very inception.

3.3 Counsel further submits that the Trial Court relied upon fabricated and irrelevant statements of the accused, such as his claim regarding the prosecutrix's prior visit to a hotel, which bears no legal nexus with the present offence. Reliance on such inadmissible and immaterial evidence renders the bail order perverse.

3.4 It is also urged that the Trial Court overlooked the mandatory requirement under Section 439(1A) Cr.P.C., which obligates the court to



ensure the presence of the informant or her representative at the time of hearing bail applications in cases involving offences under Section 376 IPC.

3.5 Counsel further contends that the accused misled the Court and attempted to malign the character of the prosecutrix, which is impermissible in the modern jurisprudence relating to crimes against women.

3.6 It is lastly submitted that if released on bail, the accused poses a grave risk of absconding and of committing similar offences against other women, thereby endangering society at large. The prosecutrix continues to live under fear for her life and safety, and the grant of bail dated 04.10.2023 has aggravated her trauma. In view of the gravity of allegations, availability of strong evidence, and the imperative need to protect women, the impugned bail order deserves to be set aside.

4. Learned APP for the State, however, that the order of the Trial Court is well-reasoned but it is for this court to consider the submissions of learned counsel for the petitioner which he does not oppose if found merit worthy.

5. In the aforesaid backdrop I have heard the rival contentions and perused the case file.

6. First and foremost, for ease of reference, relevant of the impugned order dated 04.10.2023 has been reproduced herein below:-

“3. Brief facts alleged in the FIR are that complainant 'B' came in contact with applicant/accused Vishal Maurya through social media and he called the victim/complainant to meet at Galaxy Hotel, Sector 22, Rohini where on 17.05.2023, after having meal, applicant/accused offered victim a cold drink. After consuming cold drink victim became intoxicated and applicant/accused took advantage of the state of intoxication and established physical relations with her. When victim gained consciousness, applicant/accused regretted for his act and promised her to marry her. On the said assurance



of marriage and for the sake for her modesty, she could not tell anything about the act of applicant/accused to anyone.

4. Thereafter, again on 20.05.2023 applicant/accused called the victim to a hotel where applicant/accused promised the victim to marry her till 30th May and made physical relations with victim forcibly and against her will. On 30th May applicant/accused took the victim to a rented accommodation at Jain Nagar and gave assurance of court marriage to victim after taking his documents from his house. They resided at the rented accommodation till 17.08.2023 and till that time applicant/accused used to make physical relations with victim against her will.

5. Thereafter, when victim asked the applicant for marriage, on 18.08.2023 applicant took the victim to Murthal, Haryana and told the victim that he would come within 2-3 days with his documents and thereafter, they will perform marriage. On 22.08.2023, applicant/accused telephonically contacted the victim and told that his family members are not allowing the marriage and sent him to Bhopal.

6. On 24.08.2023 applicant/accused telephonically called the victim and told her that he is coming to Delhi. On 25.08.2023 he met the victim in Delhi and shown his all documents to victim saying that appointment for marriage is fixed for 30.08.2023. From 25.08.2023 to 29.08.2023, applicant/accused used to make physical relations with victim against her wishes and on the pretext that they would get married on 30.08.2023.

7. On 30.08.2023 applicant alongwith his mother, brother Sushant and his one uncle (tau) came to the said rented accommodation in Jain Nagar and told that his uncle (tau) is SI in Delhi Police. Victim was in the impression that they all come to perform marriage of victim with applicant but Sushant, brother of applicant, started uttering filthy words and pushed the victim from her chest and also threatened the victim to get her killed. After that, at request of victim, a meeting of victim and applicant and his family members was fixed at Sector 17, Rohini at the office of Sir of victim where 3-4 persons came and misbehaved with victim and her Sir and threatened the victim to vacate the rented accommodation of Jain Vihar.



8. In the application, it is stated by the applicant that there was no connection between the applicant and the complainant before 17.05.2023 and they were never in friendship and applicant had no called the complainant at the hotel. It is stated that on 16.05.2023 applicant and his friends namely Pramod, Mukesh and Kapil checked in Hotel Galaxy Oyo Sector 22 Rohini for party and in the next morning the Hotel Manager Sunil approached the friend of applicant namely Pramod and offered to provide escort services and on asking of Mr. Pramod, manager Sunil agreed to provide two girls for them. Thereafter, the complainant alongwith two other girls namely 'R' & 'C' reached in the hotel and Mr. Pramod selected the girl 'C' and the complainant and went along them in the room and 'R' stayed in the room. However, after they finished, complainant shared her phone number with the applicant and after that they started meeting each other and spent time in different hotels at different locations in Delhi and Uttrakhand and they had consensual relationship and later on the applicant and the complainant agreed to start live in relationship.

9. It is stated that the live in relationship could not materialized and complainant suddenly started demanding Rs. 10 lacs and when the applicant refused, she started extending threats to implicate the applicant in a false case and consequently she filed the present FIR. It is also stated in the application, after coming to know about the FIR, applicant applied application under Section 91 Cr.P.C. to collect and supply necessary documents. However, the applicant was arrested on 02.09.2023 and since then he is in judicial custody.

10. It is stated that there was no force or deceit applied in establishing physical relationship and everything was consensual between the applicant and complainant and for sometime they lived in live in relationship. It is stated that there is no criminal antecedents of applicant and he belongs to a respectable and decent family having deep roots in society.

11. Per Contra on behalf of State it is claimed that the accused has committed the offence of rape by applying deceit as he took the consent of complainant under the guise of



marriage. Therefore, bail should not be granted. It is further stated on behalf of State that the applicant may threaten the witness and try to influence the investigation. State has also pointed out that the rented premises where applicant and victim were living have been forcibly vacated by the family members of applicant and all the articles of complainant have been taken by family applicant for which separate complaint is filed. Therefore, for the safety of victim and to prevent the investigation from being hampered, bail should not be granted.

12. During arguments on bail application, IO was asked if she found any material to show that applicant was in contact with the victim before 17.05.2023 and IO submitted that victim did not provide any social media history/contact between applicant and complainant before 17.05.2023. Complainant, however, claimed that she was in contact through Instagram but when asked if she can provide the screen shot of any Instagram chat/contact, complainant claimed that she had shared the IID with applicant and applicant had deleted those chats. It was asked if she can show the activity log of her contact with the applicant before 17.05.2023 but she failed to show.

13. Without going into the details how the applicant and complainant came into contact with each other, the fact is that the applicant and complainant started living in rented accommodation as live in partner. A live in relationship is a romantic arrangement where couple choose to live together without being legally married. They choose to live so as it provides flexibility of entry and exit from the arrangement with fewer legal and financial complexities. They do so for maintaining their individual autonomy, finance and decision making and also to test their compatibilities. However, both parties whenever indulged in any sexual activity while living in do so consensually. It is difficult for a person to live in when the other person applies force or coercion.

14. Along with the application, applicant has also filed reply to application under Section 91 Cr.P.C. filed by IO along with the record of Galaxy Hotel and this record shows that the complainant 'B' had made several visits to Galaxy Hotel, not



only with the applicant but also with other man. Last of such visit, as per record filed, is of 03.07.2023.

15. Alongwith application, Id. Counsel for applicant has also filed various photographs and screen shot of whatsapp of complainant with the applicant in which they are enjoying each others company.

16. The relation between the applicant and complainant appears to have turned sour. Therefore, the applicant withdrew from the relation. However, this neither gives right to applicant to insinuate and question the character of complainant nor to the complainant to coerce the applicant with the threat of custody to meet her demand of marriage. They lived together as live in partner with the conscious that they will keep on holding their autonomy and independence.

17. In these circumstances, as there is nothing remaining to be investigated from the applicant/accused except for the collection of records for which IO has already applied and considering the facts and circumstances of case, I do not find any purpose being served by keeping the accused in custody. Therefore, the application is allowed. Applicant/accused is admitted to bail on furnishing personal bond in sum of Rs. 50,000/- with one surety of the like amount to the satisfaction of Id. MM/Link MM/Duty MM subject to the condition that applicant shall not try to contact the complainant or any other witness in any manner and he shall appear on each and every date of hearing before Court. Applicant/accused is also directed that in case of change of his address, he shall provide his fresh and complete address to Court and IO.

Application is accordingly disposed off.”

7. Having perused the order dated 04.10.2023 passed by learned Sessions Judge declining to cancel the bail particularly the paragraph numbers 12 to 16 thereof. I am also not inclined to interfere and am of the same view as already taken by the learned Judge based on cogent reasons noted in his order.

8. Record reveals complainant's/victim's multiple visits to Galaxy Hotel with the accused. There are photographs and WhatsApp chats reflecting their close relationship. Their relationship later fell on the rocks, leading to



separation. I am in agreement with the view, *ibid*, that, while the accused cannot malign the complainant's character, but the complainant likewise cannot threaten him with custody to force marriage, merely because, earlier, both had consciously chosen a live-in relationship.

9. Accordingly, the instant petition is dismissed.

ARUN MONGA, J

SEPTEMBER 1, 2025/nk/rs