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

+ **BAIL APPLN. 3678/2024**

RAJNISH GOVIND MALPANI @ MALKHANIPetitioner

Through: Mr. Shyam Babu, Mr. Mohit Gulati,
Mr. Antesh Mishra, Mr. Manmay
Sarawagi, Mr. Ishan Ahuja, Mr.
Piyush Jain, Mr. Rahul Matharu and
Mr. Ayush Sharma, Advs.

versus

STATE GOVT. OF NCT OF DELHIRespondent

Through: Mr. Naresh Chahar, APP for the
State.
Ms. Savita Sethi, Adv. for the
complainant.

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER
21.01.2025

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1. The present bail application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') has been filed on behalf of the applicant/accused, seeking grant of regular bail in case arising out of FIR bearing no. 369/2023, registered at Police Station Pahar Ganj, Delhi, for offences punishable under Sections 376/328/506/420 of the Indian Penal Code, 1860 (hereafter 'IPC').

2. The status Report filed by the State is already on record. The documents filed by the prosecutrix are also on record. The prosecutrix has also filed the certified copies of the statements.



3. The FIR in this case came to be registered on the allegations of sexual assault, after the prosecutrix herein was allegedly administered intoxicated substance.

4. The learned counsel appearing for the applicant/accused states that the applicant has been falsely implicated in the present case. It is argued that the relationship between the prosecutrix and the applicant was consensual in nature, and the prosecutrix is aged about 26 years. The learned counsel states that the prosecutrix had borrowed money from the applicant, and there was a civil dispute regarding money transaction, which could not be returned by the prosecutrix. It is also stated that a perusal of the MLC in this case would reveal that the prosecutrix had refused to undergo medical examination and she herself has stated in her statement before the Court that she had sent objectionable photographs to the accused. Thus, the present applicant/accused be enlarged on bail.

5. The learned APP for the State, on the other hand, states that the prosecutrix in her statement recorded under Sections 164 and 161 of the Cr.P.C., the FIR, and in the testimony recorded before the learned Trial Court has supported the case of the prosecution, and during investigation, it also became clear that the applicant herein had cheated the prosecutrix. The learned APP for the State has argued that in this case, a complaint had been presented to the SHO, P.S. Karol Bagh, New Delhi for commission of offence punishable under Sections 376/328/506 of IPC, by the prosecutrix, against the present applicant/accused. However, the prosecutrix did not want any legal action on her complaint. Later on, the matter was compromised between the parties, thus, the complaint did not culminated into an FIR. It is stated that another victim had lodged a complaint under Section 376 of the



IPC against the present applicant/accused, which was not persuaded by her. Thus, it is prayed that the present bail application of the applicant/accused be dismissed.

6. This Court has heard arguments on behalf of both the parties and has also gone through the record.

7. Having heard the learned counsel appearing for the applicant and as also the learned APP for the State, this Court is of the opinion that the material witnesses in this case have already been examined before the learned Trial Court, including the prosecutrix. The prosecutrix in her cross-examination, in the later part, has admitted having sent some objectionable photographs to the applicant/accused. The MLC reveals that the prosecutrix had refused to undergo internal medical examination. Further, the complaint in this case was lodged after three months of the alleged incident in question. Though, it is alleged that the prosecutrix was in contact with the applicant/accused herein, even after the alleged incident, and was exchanging messages, etc., the Investigating Officer (IO) has not seized the Call Detail Records.

8. Considering the same, this Court is inclined to grant regular bail to applicant/accused on his furnishing personal bond in the sum of Rs. 25,000/- with one surety bond of the like amount, subject to the satisfaction of the learned Trial Court/Successor Court/Link Court/Duty Judge concerned, on the following terms and conditions:

- i) The applicant/accused shall not leave the country without prior permission of the concerned Court.
- ii) In case of change of residential address/contract details and phone number, the applicant/accused shall promptly inform the



same to the concerned Trial Court.

iii) The applicant/accused will not absent himself before the learned Trial Court;

9. Accordingly, the bail application stands disposed of.

10. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 21, 2025/ns/A

Click here to check corrigendum, if any