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

+ **BAIL APPLN. 4350/2024 & CrI.M.A.No.35556/2024**

SANDEEP GOYAL

.....Petitioner

Through: Counsel (Appearance not given)

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Raj Kumar, APP for the State
with SI Anju.

Mr. K.K. Singh, Advocate for the
complainant.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER
09.01.2025

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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, seeking grant of regular bail in case arising out of FIR bearing no. 744/2024, registered at Police Station Narela, Delhi, for offences punishable under Section 376 of the Indian Penal Code, 1860 (hereafter '*IPC*').

2. Issue notice. Mr. Raj Kumar, the learned APP accepts notice on behalf of State.

3. Briefly stated, the FIR in this case came to be registered on the statement of the prosecutrix recorded under Section 161 of Code of Criminal Procedure, 1973 (hereafter '*Cr.P.C.*'), alleging therein that the prosecutrix,



aged about 37 years, used to work in the factory owned by the applicant herein, who had called her to his room in the factory on the first floor and had made physical relations with her forcefully. Later on, he had apologized to her and she had continued to work in the factory. After ten days of the said incident, the applicant had threatened the prosecutrix by showing her a video of intimate acts taking place between them and had demanded that she should come to him whenever he would call her or else he would circulate that inappropriate video. Thereafter, she had continued to meet him for three months. Even though the factory of the applicant was closed due to some reasons, both of them had continued to live together. The prosecutrix had also left her husband and children and had continued to live together for about three years with the accused. Thereafter, as alleged, the applicant had taken her jewellery and had abandoned her. However, later on, when she was able to trace him, she had lodged complaint with the police and had informed the police that she can point out his residence. The present FIR was registered on 06.08.2024 and the applicant was arrested on the same day.

4. In these facts and circumstances, the learned counsel appearing on behalf of prosecutrix states that the applicant herein has cheated the prosecutrix and on pretext of getting married to her, has exploited and sexually assaulted her for three years. The learned counsel further states that the applicant, in connivance with the investigating officer (IO) concerned, has misdirected the investigation and that the IO has not conducted investigation properly. Therefore, considering the seriousness of the allegations, bail be not granted to the applicant.

5. The learned counsel appearing for the applicant, on the other hand,



contends that the prosecutrix herein was 37 years of age at the time of incident, was married and had children. She had voluntarily stayed with the applicant and later, has termed their relationship as sexual assault, whereas, the relationship was consensual in nature.

6. This Court has heard arguments addressed on behalf of both the parties, and has perused the material available on record.

7. After going through the case file, this Court is of the opinion that concededly, the prosecutrix herein was 37 years of age, was married and had three grown up major children, at the time of alleged incident. Though she has stated that she was sexually assaulted and her inappropriate video was prepared by the applicant, no such video was recovered from the applicant during investigation. Moreover, after the incident in question, the prosecutrix herein has not only deserted her own husband and children, but has also decided to live with the applicant. It is not disputed that the applicant and the prosecutrix have stayed together for three years after she had abandoned her family. It is not clear as to whether during that period the applicant had also abandoned his family or not, however, later, he had started living with his own family and had decided not to live with the prosecutrix. *Prima facie*, when the applicant had abandoned the prosecutrix and had refused to live with her, that the present complaint for sexual assault came to be filed by the prosecutrix.

8. During the course of arguments, this Court's attention was also drawn to the contents of the chargesheet wherein it is mentioned that after lodging the complaint, the prosecutrix herself had told the police that she will give her statement only after speaking to the applicant, however, since they were unable to arrive at a settlement, the prosecutrix had lodged the complaint.



9. Therefore, considering that the prosecutrix was already married and was mature enough to decide for herself, as to whether she wanted to live with her legally wedded spouse and family or with the petitioner who was already married wanted to lodge a complaint against the applicant. She had opted to live with the applicant at a location away from her matrimonial home, while she was in a legally subsisting marriage, and later when she was abandoned and the applicant had started living with his own family, the FIR came to be registered. Considering the overall facts and circumstances of the present case, the applicant is in custody for more than five months, this Court is inclined to grant regular bail to the applicant, on his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:

- i. The applicant shall not leave the country without prior permission of the Trial Court.
- ii. The applicant shall not directly or indirectly make an attempt to contact the victim, or influence the witnesses or tamper with the evidence in any manner.
- iii. In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Trial Court and IO/SHO.

10. Accordingly, the present bail application along with pending application stands disposed of.

11. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.



12. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 9, 2025/zp

Click here to check corrigendum, if any