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

+ **BAIL APPLN. 4546/2024**

JAVED

.....Petitioner

Through: Mr. Yogesh Sharma, Adv.

versus

STATE (THROUGH SHO PS DAYALPUR)

.....Respondent

Through: Mr. Raj Kumar, APP for the State
SI Pooja PS Dayalpur

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

31.01.2025

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C.M.APPL. 37119/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

BAIL APPLN. 4546/2024

3. The present second bail application under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') has been filed by the applicant, seeking grant of anticipatory bail in case arising out of FIR bearing no. 512/2024, dated 01.10.2024, registered at Police station Dayalpur, Delhi for offences punishable under Section 376/506 of the Indian Penal Code, 1860 (hereafter 'IPC').

4. Briefly stated, the complainant herein had alleged that the applicant/accused had come in contact with her about six months prior to the incident. On 21.02.2024, the applicant had called the complainant at GTB



hospital and thereafter, he had gone to the house of the complainant, where he had revealed for the first time that he was married and had four children. The complainant had become nervous and on seeing this, the applicant herein had forcibly administered one cold drink laced with sedatives to the complainant, due to which she had become unconscious. Taking advantage of the situation, the applicant had established physical relations with the complainant and also gagged her mouth while extending a threat to her by saying “*shor machaya to jaan se maar dunga*”. After gathering some courage, the complainant had revealed this incident to her sister and thereafter a complaint was filed by her, resulting in lodging of DD no. 61A dated 16.03.2024. On 01.10.2024, another complaint was received from the complainant whereupon the present FIR was registered.

5. As per the Status report, on 01.10.2024, a team was sent to village Makhyali, Muzaffarnagar, Uttar Pradesh to look for the applicant/accused herein, who later joined the investigation. On 01.10.2024, the medical examination of the complainant was conducted vide MLC no. 110028, wherein she had refused to undergo internal medical examination and had not not levelled any allegation of rape against the applicant/accused. Thereafter, the applicant had joined investigation and was interrogated. The complainant failed to join the investigation due to some health issues. Thereafter, on 12.10.2024, her statement under Section 183 of BNSS was recorded wherein she had supported her version of the FIR.

6. During investigation, CDR of the complainant and the applicant/accused had been obtained. During further investigation, the Urine Pregnancy Test of the complainant was found to be positive and on enquiry by the concerned doctor, the complainant stated that the child belonged to



her boyfriend namely Sanjay.

7. The learned counsel appearing on behalf of the applicant states that the applicant herein has been falsely implicated by the complainant and her associates for extorting money from him. It is stated by the learned counsel that the applicant herein had been threatened to give money, failing which he would be falsely implicated in a case of rape and molestation. In this regard, the applicant had also made a complaint at P.S. Mandi, Muzaffarnagar. It is also submitted that being left with no other option, the applicant/accused had paid a sum of Rs. 1,50,000/- to the complainant. The learned counsel has also placed reliance on several judgments of this Court in support of his arguments. He also states that the applicant had joined investigation. Therefore, it is prayed that the above said application be allowed.

8. The learned APP appearing for the State, on the other hand, strongly opposes the present bail application, and submits that investigation of the case is at initial stage. On 02.11.2024, a notice under Section 35(3) of BNSS had been served upon the accused to join the investigation for medical examination and potency test. It is argued that the allegations are serious in nature and therefore, the present bail application be dismissed.

9. This Court has heard learned counsel appearing on behalf of the parties and has perused the case file.

10. After perusing the material on record, this Court finds that the investigation has revealed certain crucial facts. During the medical examination of the complainant, the Urine Pregnancy Test of the complainant was found positive, and upon enquiry by the concerned medical professional, the complainant had disclosed that the child belonged to her



boyfriend, namely Sanjay. This Court's attention was also drawn to the fact that in her MLC, the complainant had not levelled any allegation against the present applicant. Furthermore, an analysis of the CDR shows that at the time and date of the alleged incident, the complainant was present at Nala Road, Brijpuri, Delhi while the applicant/accused was at Village Makhyali, district Muzafarnagar, Uttar Pradesh. Concededly, the applicant had earlier joined investigation in the present case.

11. Considering the overall facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the applicant/accused. In view thereof, it is directed that in event of arrest, the applicant shall be released on his furnishing a personal bond in the sum of Rs. 10,000/- with one surety of the like amount to the satisfaction of the IO/SHO concerned, on the following terms and conditions:

- i. The applicant shall not leave country without prior permission of the concerned Court.
- ii. The applicant shall join investigation as and when required by the concerned I.O./SHO.
- iii. The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.

12. The present application is accordingly disposed of.

13. It is clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

14. The order be uploaded on the website forthwith.

JANUARY 31, 2025/ VLD

SWARANA KANTA SHARMA, J

[Click here to check corrigendum, if any](#)