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

+ **BAIL APPLN. 9/2025**

GIRISH KUMAR

.....Petitioner

Through: Mr. DK Singh, Mr. Virender Rajput,
Mr. Pankaj Chauhan, Mr. Kshatriya
Kumar, Ms. Nandini Singh, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP
with PSI Ruchika, PS Nand Nagri

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

29.01.2025

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1. This is a petition filed under section 483 of BNSS seeking grant of regular bail to the petitioner in FIR No. 730/2024, dated 09.11.2024, registered at PS Nand Nagri under section 376 of IPC, 1860.
2. In the present case, the petitioner has been in custody since 11.11.2024.
3. Briefly stating the facts are that the petitioner and the prosecutrix knew each other since December 2019 and at that time, both the petitioner and the prosecutrix were already married with their respective spouses.
4. On 02.01.2020, the petitioner had gone to attend the birthday function of the prosecutrix, whereby he brought a cake and some food items for the prosecutrix. After consuming the same, the prosecutrix became unconscious. When the prosecutrix regained consciousness, she found out that the



petitioner had committed rape on her while she was unconscious. Further, the petitioner also told the prosecutrix that he loves her and wants to get married with her, however, since the prosecutrix refused and wanted to complain to the police, the petitioner started blackmailing the prosecutrix with her nude photographs and obscene videos and threatened the prosecutrix of making the said photos and videos viral on social media. Further, the petitioner continued to exploit and establish physical relationships with the prosecutrix on the basis of such threats.

5. It is stated that the prosecutrix only on 15.04.2023, became aware that the petitioner is married, after which the prosecutrix contacted the wife of the petitioner as well.

6. Thereafter, the prosecutrix got to know that she was pregnant. On 01.09.2024, the petitioner gave some tablets to the prosecutrix stating that the same were calcium tablets. After consuming the said tablets, the prosecutrix started bleeding and lost her fetus.

7. Hence the present FIR came to be registered.

8. Mr. Singh, learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and the registration of the FIR is only an arm-twisting tactic against the petitioner. He states that the petitioner had not gone to attend the birthday party of the prosecutrix on 02.01.2020 and the allegations of blackmailing the prosecutrix with her nude photographs and obscene videos are not true.

9. He further states that even as per the prosecutrix, she got to know about the marital status of the petitioner on 15.04.2023, however the present FIR came to be registered on 09.11.2024, which amounts to an inordinate delay of more than 1 year and 5 months.



10. *Per Contra*, Mr. Chaudhary, learned counsel on behalf of the prosecutrix along with the prosecutrix herself is present through virtual mode and states that it is the case where the petitioner has committed rape upon the prosecutrix without her consent. Further, it is because of the tablets given by the petitioner that the prosecutrix lost her fetus.

11. He further states that the investigation in the present case, has not been done in a proper manner.

12. I have heard learned counsel for the parties.

13. In the present case, the allegations against the petitioner are serious and grave in nature and the petitioner is accused of committing rape on the prosecutrix and thereafter, threatening the prosecutrix with her nude and obscene videos, however the fact remains that the petitioner is still and under trial prisoner. The charges against the petitioner are yet to be framed and the trial is unlikely to conclude in the near future. Till the trial is concluded, the petitioner is presumed to be innocent. Further, there is no other criminal case against the petitioner except the present FIR.

14. The rights under Article 21 of the Constitution of India are paramount.

15. Mr. Singh, learned counsel for the petitioner has also drawn my attention to the GST certificate issued in favour of the prosecutrix, wherein the address of the prosecutrix is shown as H. No. 32/33, First floor, Kh No. 60, Main Mangal Bazar Road, New Sabha Pur Gujran, MCD School, North East, Delhi – 110094, which is the address where the petitioner resides. During the Covid 19 pandemic, it was the father of the petitioner who gave the said property on rent to the prosecutrix for her office namely, M/s Adersh Security Service (Regd). The said GST certificate is effective from



14.09.2020.

16. If the GST certificate was issued w.e.f. 14.09.2020, it is *prima facie* difficult to comprehend that the prosecutrix became aware of the marital status of the petitioner on 15.04.2023. Further, in case the alleged incident firstly took place on 02.01.2020, when the petitioner went to attend the birthday party of the prosecutrix, it is difficult to comprehend as to why the prosecutrix would take the premises of the petitioner on rent and apply for a GST certificate from that address after 9 months of the said incident.

17. In addition, as per the status report handed over in Court today, the MLC is also unable to confirm the presence of fetus qua the prosecutrix.

18. As regards, the investigation is not done in a proper manner, the prosecutrix is at liberty to avail all her legal remedies in accordance with law.

19. For the said reasons, I am inclined to allow the present petition and the petitioner is directed to be released on bail on the following terms and conditions:

- i. The petitioner shall furnish a personal bond in the sum of Rs 10,000 (Rupees ten thousand only) each with 1 surety in the like amount, to the satisfaction of the concerned Trial court;
- ii. The petitioner shall not leave the country without the permission of the competent court and if the petitioner has a passport, he shall surrender the same to the Jail superintendent;
- iii. The petitioner shall provide his mobile number to the concerned Investigating Officer (IO), which shall be kept in working condition and switched on at all times. The petitioner shall also provide his permanent residential address and in case of change of



- residential address or contact details, the petitioner shall promptly inform the same to the concerned IO as well as to this Court;
- iv. The petitioner shall not communicate with, or come into contact with any of the prosecution witnesses, or tamper with the evidence of the case.
 - v. The petitioner shall not indulge in any act or omission that is unlawful, illegal or that would prejudice the proceedings in pending cases, if any;
20. The petition is disposed of accordingly.
21. The status report handed over in court today is taken on record.

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JASMEET SINGH, J

JANUARY 29, 2025/DM

Click here to check corrigendum, if any