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

+ BAIL APPLN. 2310/2023

VINEET SURELIA

..... Applicant

Through: Mr. Asutosh Lohia, Mr. Rohit
Saraswat with Mr. Nitin
Surelia, Advocates

versus

THE STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Meenakshi Dahiya, APP for the
State with SI Suruchi, PS. Fatehpur
Beri
Ms. Aishwarya Rao, Advocate for
the victim

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

07.11.2023

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1. The applicant vide the present application under Section 438 Code of the Criminal Procedure, 1973 is seeking anticipatory bail in FIR No.0255/2023 dated 20.06.2023 registered under Sections 328/376/506 of the Indian Penal Code, 1860 [**IPC**] at P.S. Fatehpur Beri, Delhi.

2. As per FIR, the complainant/ prosecutrix [**complainant**] and the applicant got introduced to each other through an online dating application thereafter, on 13.06.2023, the complainant went to meet the applicant at Central Secretariat Metro Station, Delhi, whereafter, she went to the house of the applicant whence he stated that he had some work pending therein, thereafter she was offered a soft beverage alongwith some food, after

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having the same, the complainant felt dizzy and during that half awake state, the applicant did some acts of sexual misconducts upon her. Thereafter, she managed to escape therefrom and lodged the present FIR.

3. The learned counsel for the applicant seeking grant of anticipatory bail submits that the applicant had lodged a complaint vide D.D. No. 93A dated 16.06.2023 at P.S. Fatehpur Beri about theft of mobile phone and other valuable items from his house by the complainant, a week prior to the registration of the present FIR and the same is an afterthought and a counter blast to the aforesaid complaint, moreover, the complainant has made various transactions on e-commerce websites from the credit/ debit card of the applicant.

4. He further submits that no FIR was registered pursuant to complaint dated 16.06.2023 filed by the applicant is against the dicta of the Hon'ble Supreme Court in *Lalita Kumari v. Govt. of U.P.* (2014) 2 SCC 1.

5. The learned counsel for the applicant also submits that the applicant has already joined the investigation and is cooperating with the police. Moreover, the present FIR is motivated therefore no custodial interrogation is required and also there are no prior criminal antecedents of the applicant. He further places reliance upon *Bhadresh Bipinbhai Sheth vs. State of Gujarat & Ors.* AIR 2015 SC 3090; *Ashok Kumar vs. Versha Ritu* 2014 SCC OnLine Del 3995; *Faheem Ahmed vs. State(NCT of Delhi) & Anr.* 2023 SCC OnLine 2691; *Sunil Jha vs. State* 2023 SCC OnLine Del 289; *Kapil Gupta vs. State* vide order dated 23.09.2020, Bail Appln. 2813/2020 Delhi High Court; *Hanzla Iqbal vs. State & Anr.* 2022 SCC OnLine Del 2598; *Rohit Bansal vs State* 2015 SCC OnLine Del 9937; *Santosh vs State of Maharashtra* MANU/SC/1313/2017.



6. Notice was issued and Status Report was called for.
7. Learned APP for the State relying upon the Status Report opposes grant of anticipatory bail to the applicant and submits that investigation is at initial stages and the offence alleged is of a heinous nature moreover, there are chances that the applicant may hamper the investigation and influence the witnesses. He further submits that only on the directed on this Court the applicant joined the investigation but, is not answering all the questions.
8. This Court has heard the learned counsel for the parties and perused the documents on record alongwith judgements.
9. The facts reveal that the applicant and complainant encountered each other through an online app and thereafter they were constantly messaging each other. The above leads this Court to draw the inference that they were known to each other. Further, prior to registration of the present FIR, the applicant had already lodged a complaint vide D.D. No. 93A dated 16.06.2023 at P.S. Fatehpur Beri reporting the theft of his mobile phone and other valuable items by the complainant from his house. The veracity thereof is a matter of trail. Interestingly, the complaint was filed before the very same Police Station, that too almost a week prior to registration of the present FIR. Record further reveals that the complainant was engaged in making various transactions on e-commerce websites from the credit/ debit card of the applicant. Once again, the veracity thereof is also a matter of trail.
10. The applicant is a Government School Teacher having a wife and two children. The applicant has a family so there is hardly any likelihood of his absconding. There are no complaint(s) of any intimidation and/ or



threat extended by the applicant to the complainant. The applicant has clean antecedents with no past history of involvement in any complaint/ FIR of any kind. There are hardly any chances of the applicant tampering with the evidence and/ or influencing the witnesses. No further recovery is sought to be made from the applicant. Furthermore, in light of charge sheet being filed on 28.09.2023, there seems no requirement for any custodial interrogation of the applicant. Thus, not granting him bail at this stage can lead to ignominy, humiliation and disgrace of the applicant in Society.

11. Also, the gravity of the offence and/ or the severity of the punishment involved, in case of conviction of the applicant, under the aforesaid circumstances can be overlooked by this Court.

12. Therefore, there are enough materials on record for this Court to give benefit of the doubt to the applicant for allowing the present application for grant of anticipatory bail.

13. As on date, the applicant has joined investigation and participated in the proceedings as and when called for, though the same is disputed by the learned APP for the State. In any event, this Court wishes to take note of the fact that in numerous cases pending trial, unfortunately, there is a recent growing trend wherein an accused, despite either making a statement through counsel in the Court or despite conditions being imposed by the Court, merely chooses to 'physically' join investigation on paper, without any actual participation.

14. No doubt, an accused can always take the benefit of Article(s) 20(3) and 21 of The Constitution of India. However, the accused is to remember at all times that there is a palpable difference between 'joining' and



‘participating’ in an investigation. Thus, an applicant once granted bail, is always expected to, not only join investigation but also participate therein. Lest the purpose of granting bail, more so, that of granting anticipatory bail to an accused will be defeated, and it shall cause a hinderance to the ongoing investigation being carried on. The applicant is expected to show high sensitivity, diligence and understanding, not only the purpose but also the consequences of any non-compliance of the conditions imposed by the Court while granting bail.

15. Accordingly, the present applicant is granted anticipatory bail in FIR No. 0255/2023 dated 20.06.2023 registered under Sections 328/376/506 IPC at P.S. Fatehpur Beri, Delhi and in the event of his arrest the applicant be released on bail, subject to him furnish a personal bond of Rs.50,000/- (*Rupees Fifty Thousand Only*) alongwith one local surety in the sum of like amount of one friend/ family member having no criminal antecedents subject to the satisfaction of the learned Trial Court and further subject to following conditions:-

- i. The applicant shall cooperate with the police and participate in the investigation.
- ii. The applicant shall appear before the Trial Court as and when the matter is taken up for hearing.
- iii. The applicant shall provide his mobile number to the Investigating Officer (I.O.) concerned which shall be kept in a working condition at all times. The applicant shall not switch off, or change the same without prior intimation to the I.O. concerned, during the bail period.
- iv. The applicant shall report to the local Police Station on



every Monday at 10:30 A.M. He shall not be forced to sit for more than half an hour on any such occasion.

v. In case the applicant changes his address, he will inform the I.O. concerned as well as this Court also.

vi. The applicant shall not leave NCT of Delhi during the bail period and surrender his passport, if any, at the time of release before the Trial Court.

vii. The applicant shall not indulge in any criminal activity during the bail period.

viii. The applicant shall not communicate with, or come into contact with any of the prosecution witnesses, or any member of the victim's family, or tamper with the evidence of the case.

16. Copy of this order be sent to the concerned SHO for necessary compliance thereof.

17. Needless to mention, observation made, if any, are purely for the purposes of adjudication of present bail application and shall not be construed as on the merits of the matter.

SAURABH BANERJEE, J

NOVEMBER 7, 2023/akr