



2025:DHC:810



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Pronounced on: 10th February, 2025***
+ **BAIL APPLN. 104/2025**

ABHIJEET KUMAR
S/o Sh. Ashok Singh
R/o House No.76, Siras Pur
Samai Pur Badli, PO Samai Pur
Distt. North West, Delhi

.....Petitioner

Through: Ms. Ranjana Singh, Mr. Pankaj
Singh, Mr. Ritik Verma & Mr. Harsh
Vardhan Mittal, Advocates.

Versus

(1) STATE (GOVT. OF NCT OF DELHI)

(2) VICTIM M

Through SHO

.....Respondents

Through: Ms. Meenakshi Dahiya, Additional
Public Prosecutor for State with SI
Amit, Police Station Badli, Delhi

Ms. Priyanka Kumar & Mr. Ravi
Saroja, Advocates for Respondent
No.2

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The Bail Application under Section 483 of the Bhartiya Nagarik Surkasha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) read with Section 528 of B.N.S.S. (earlier known as 439 of *the Code of Criminal*



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Procedure, 1973 ('Cr.P.C.') read with Section 482 Cr.P.C.) has been filed on behalf of the Applicant for grant of Regular Bail in FIR No.526/2024 under Sections 376/377/506/509/323 of the *Indian Penal Code, 1860* ('IPC' *hereinafter*), registered at Police Station Samaypur Badli, Delhi.

2. *It is stated in the Application* that the Petitioner is in custody since 30.05.2024. It is submitted that the Complainant/Prosecutrix is a highly educated independent woman, aged around 24 years, open-minded and elder to the Applicant. The Applicant and the Complainant dated each other for quite long time and they were in deep love with each other. They had plans to get married and their families were aware about their relationship. Both of them used to travel out of Delhi on trips, including hill stations, Adventure Parks etc. and spent quality time together. They used to enjoy and cherish their time together as a happy couple. The Prosecutrix had expressed her love for the Applicant multiple times over WhatsApp, which shows no coercion or force in their relationship. Even on a few occasions the Prosecutrix insisted to go to OYO Hotels even though Applicant was evasive for the same. During such stays, she voluntarily produced her Identity Card and did not raise any concerns or made any complaint of any alleged misconduct to the police or any other authority, which demonstrates that their physical relationship was with mutual consent, free-will and love.

3. The Applicant has alleged that in May, 2024 he discovered that the Complainant/Prosecutrix was also dating someone else and regularly communicating with that person, which was quite traumatic for him. With an intention to resolve the misunderstanding, he met the Complainant in last week of May, 2024 when she broke all the ties with him. However, out of



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vendetta she filed the false and fabricated complaint and got the FIR registered against the Complainant. It is asserted that Applicant's promise of marriage was never false and he never seduced the Complainant to indulge in sexual acts. There is no evidence to suggest any coercion, force or assault on the part of the accused. He never blackmailed her to share her private photographs and has not annexed their photographs with this Petition but has sought liberty to produce the same at the time of arguments.

4. *Learned Counsel for the Applicant submitted* that investigation is complete and Charge-sheet has already been filed before the learned Trial Court wherein nothing incriminating has been found against the Applicant. Charge has already been framed and proceedings in Trial Court are in progress. The antecedents of Applicant are clean and he belongs to a respectable family of the Society. Prolonged incarceration of the Applicant would cause major financial constraints for his family, as he is the sole bread earner. His father suffers from serious mental medical issues and his younger brother, who has just passed out 12th Class, is unable to pursue his studies due to lack of money.

5. The Applicant has undertaken not to tamper with the evidence and to no contact the Complainant or witnesses and appear before the Trial Court regularly.

6. Reliance is placed upon decision in *Prashant Vs. State of NCT of Delhi* 2024 SCC OnLine SC 3375 wherein the Apex Court taking view of the fact that allegations in the FIR and the Charge-sheet, did not contain the crucial ingredients of offence under Section 376 (2) (n) IPC, as the relationship between the parties was consensual and mere breakup of a



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relationship between a consenting couple cannot result in initiation of criminal proceedings, quashed the FIR registered against the Appellant therein.

7. ***Learned Additional Public Prosecutor for Respondent-State*** has on advance Notice, opposed the present Bail Application submitting that there are specific allegations of false promise to marry, blackmailing and threatening the Complainant of making their personal photographs viral. Also there is a Medical Report to show that she had tested positive for pregnancy. The allegations levelled against the Applicant are serious in nature and he does not deserve Bail.

8. **Submissions heard and record perused.**

9. At the outset, it is pertinent to observe that in the changing times when women are emerging and becoming a relevant part of the work force, it becomes the responsibility of Legislature as well as the Executive to enact laws and implement them so as to ensure their safety and well being. The Courts have an equal corresponding responsibility to interpret and apply the laws pragmatically to given situations to ensure that the protection of law is a reality and not merely a paper protection. However, a more onerous duty lies on the Courts to also be a watchdog to apply an even hand and deal with a given situation in a manner to prevent its abuse and misuse by any person.

10. In the present times, many a times close proximity at workplace results in consensual relationships which on turning sour, get reported as crimes, making it pertinent to be conscious of the distinction between the offence of rape and consensual sex between two adults.

11. The Apex Court in *Dhruvaram Murlidhar Sonar v. State of*



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Maharashtra, (2019) 18 SCC 191, has observed:

“there is a clear distinction between rape and consensual sex. The court, in such cases, must very carefully examine whether the complainant had actually wanted to marry the victim or had mala fide motives and had made a false promise to this effect only to satisfy his lust, as the latter falls within the ambit of cheating or deception. There is also a distinction between mere breach of a promise and not fulfilling a false promise. If the accused has not made the promise with the sole intention to seduce the prosecutrix to indulge in sexual acts, such an act would not amount to rape. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused and not solely on account of the misconception created by accused, or where an accused, on account of circumstances which he could not have foreseen or which were beyond his control, was unable to marry her despite having every intention to do. Such cases must be treated differently. If the complainant had any mala fide intention and if he had clandestine motives, it is a clear case of rape. The acknowledged consensual physical relationship between the parties would not constitute an offence under Section 376 IPC.”

12. The present case, is also from the same genre wherein the Applicant and the prosecutrix developed sexual proximity while working in the same workplace, but after about one year, the relationship turned sour resulting in the present case with allegations of force and rape.

13. The Applicant who is in judicial custody since 30.05.2024, preferred his *first Bail Application* before the learned Sessions Court but the same was withdrawn *vide* Order dated 03.07.2024. After filing of the Charge-sheet, the Petitioner again moved the *second Bail Application* before the learned Additional Session Judge who dismissed the same *vide* Order dated 15.10.2024 observing that that the prosecutrix has supported the prosecution



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case, the Charge-sheet indicates the gravity of offence and also that there are allegations of his threatening the Complainant/ Prosecutrix and that he may influence the witnesses and flee from justice.

14. A perusal of Charge-sheet shows that the Applicant and the Complainant were in a relationship for more than one year. However, as per the Complainant eventually the attitude of Petitioner/Complainant changed and he started ill-treating and blackmailing her. On 26.05.2024, the Applicant took the Complainant to his house where he forcibly established physical relations with her. Again on 30.05.2024, when at around 08:00 PM the Complainant was returning from her office, the Applicant stopped her and gave her beating resulting in injuries on her head. He again tried to forcibly take her to his house by blackmailing her to make their photographs viral. However, in the meanwhile the Complainant received a call from her sister to whom she narrated the entire incident, who then called the Police.

15. Charges against the Applicant has already been framed on 25.11.2024 and the matter is now fixed on 15.04.2025. The veracity of allegations levelled against the Applicant shall be tried during trial which is likely to take some time. The Applicant is in judicial custody since 30.05.2024. No fruitful purpose would be served in keeping the Applicant behind bars for an inordinate long time.

16. In the totality of circumstances and without commenting on the merits of the case, the Applicant – Abhijeet Kumar, S/O Sh. Ashok Singh, is admitted to bail in the present case on his furnishing bail bond in the sum of Rs.35,000/- with one Surety in the like amount to the satisfaction of the Trial Court, subject to the undertaking that:-



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- (i) The Applicant shall not misuse the liberty granted to him;
- (ii) The Applicant shall not tamper with any evidence, oral or documentary during the trial;
- (iii) The applicant shall not go even in the vicinity of the house and workplace of the prosecutrix;
- (iv) The Applicant shall appear before the Trial Court on every date of hearing; and
- (v) That applicant shall keep the SHO/ IO informed about his mobile number and the address.

17. With aforesaid, the present Bail Application and miscellaneous Application(s), are accordingly disposed of. A copy of this Order be communicated to the concerned Court/Jail Superintendent concerned.

**(NEENA BANSAL KRISHNA)
JUDGE**

FEBRUARY 10, 2025

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