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

+ BAIL APPLN. 3264/2021

DEEPAK KUMAR Petitioner

Through: Mohd Mohsin Raja with Mr. Sanjay
Kumar, Advs.

versus

STATE OF GNCTD Respondent

Through: Ms. Asha Tiwari, APP for State with
SI Ritu, PS Bindapur.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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20.09.2021

(through physical hearing)

The applicant vide the present application seeks the grant of anticipatory bail in relation to the FIR No.400/2021, PS Bindapur, under Sections 376/506/406 of the Indian Penal Code, 1860 submitting to the effect that he has been falsely implicated in the instant case; that the relationship between the applicant and the prosecutrix was wholly consensual and that the alleged monetary transaction in relation to which the prosecutrix has alleged to have been duped i.e. Rs.28 lacs is only a civil transaction, qua which, the proceedings in the Civil Court can be initiated by the prosecutrix or she may move under the Negotiable Instruments Act, 1881. It has also been submitted on behalf of the applicant that both the applicant and the prosecutrix belong to the State of Bihar and this aspect has been concealed by the prosecutrix through the First Information Report. It is also submitted on behalf of the applicant that the contents of the FIR do not

bring forth the commission of any offence punishable under Section 376 of the Indian Penal Code, 1860 and that the same is sought to be incorporated only through the statement under Section 164 of the Cr.PC, 1973. It has also been submitted on behalf of the applicant that the applicant has challenged the initiation of proceedings under Section 82 of the Cr.PC, 1973, though the petition is yet to be listed. It has been submitted on behalf of the applicant that the applicant is ready to join the investigation of the case and thus he be released on anticipatory bail.

On behalf of the State, the status report dated 10.09.2021 has been submitted. Learned APP for the State has vehemently opposed the prayer made by the applicant seeking grant of anticipatory bail submitting *inter alia* to the effect that since the proceedings under Section 82 of the Cr.PC, 1973 have been initiated against the applicant, the applicant cannot even be released on anticipatory bail. *Inter alia* the State has placed on record along with the status report that has been submitted, the statement under Section 164 of the Cr.PC, 1973 of the prosecutrix recorded on 08.05.2021. It has been submitted thus on behalf of the State that the status report and the statement under Section 164 of the Cr.PC, 1973 of the prosecutrix support the contentions that have been raised by the complainant of her having been raped by the applicant pursuant to a false promise of marriage and that she has also been duped of money in relation to which the monetary transactions have been verified from the bank of the complainant/ prosecutrix.

The prosecutrix who is present in person opposes the prayer that has been made by the applicant and submits that she was duped into the relationship by the applicant after she had associated with him on Jeevansathi.com and all details given by the applicant of his being posted as

a Major in the Army are false and that in fact the applicant was also a married man as has been borne out through further investigation conducted. The prosecutrix further submits that the applicant had entered into sexual relations with her only on a premise of false information given by him of his being a Major in the Army and a false promise to marry and when she informed him of her pregnancy, he asked her to abort and she got herself aborted between 15-20.10.2020. She also states that the applicant promised her that he would get jobs for her relatives and family members, in relation to which, money had been paid by her and when the said jobs were not arranged, the applicant had given four cheques for sums of Rs.15-20 lacs which had not been cleared due to lack of sufficient fund. She also states through her statement under Section 164 of the Cr.PC, 1973 that it has been learnt that the applicant is actually named Praveen Kumar and is married to Shweta Kumari. The prosecutrix has further stated now as also stated through her statement under Section 164 of the Cr.PC, 1973 that the applicant had threatened her that he would make her photographs with sexual contents viral on the social media and would defame her. She further states through her statement under Section 164 of the Cr.PC, 1973 that these photographs of hers were taken by the applicant without her consent. She also submits orally now during the course of the present hearing that the applicant had threatened her that he would leak her video and photographs on the social media and that he would also shoot her brother and father and she thus opposes the prayer made by the applicant seeking grant of anticipatory bail.

On behalf of the applicant learned counsel for the applicant has placed reliance on the verdict of the High Court of Patna in *Sanjay Kumar @*

Swami Vs. The State of Bihar in Criminal Miscellaneous No.58406/2019, a verdict dated 20.09.2019 submitting to the effect that the applicant has been granted bail and seeks bail on a parity of reasoning in that case. Reliance is also placed on behalf of the applicant on the verdict of this Court in *Bhushan Lal Khanna Vs. the State Govt. of NCT of Delhi* in Bail Appln.2529/2017 to submit that in similar circumstances, the applicant therein had been granted prevention from arrest.

On a consideration of the submissions that have been made on behalf of either side and on a perusal of the statement under Section 164 of the Cr.PC, 1973 as well as submissions made by the prosecutrix herself in person, it is essential to observe that the reliance that has been placed on behalf of the applicant on the verdicts relied upon is misplaced in as much as the facts and circumstances of the instant case are not in *pari materia* of the facts and circumstances of the case relied upon.

This is so in as much as the investigation in the matter as brought forth on behalf of the State indicates that the applicant was not a Major in the Army; that the applicant is known by the name Praveen; that the applicant is already married to one Shweta Kumari; that the applicant had duped the complainant of her money for getting jobs for her relatives, and that the relationship between her and the prosecutrix, if any, even with the consent of the prosecutrix was only on the false premise that had been put forth by the applicant of being a Major in the Army when he put himself through the Jeevansathi.com profile and even the IDs used by the applicant were fake and that the applicant had also given his fake identity of his being a Major with the Indian Army with the Identity card bearing No.G-086536 qua which it is submitted on behalf of the State that a letter has already been

sent to the Indian Army in relation thereto apart from a fake promise of marriage having been made by the applicant despite his being a married man. It is also submitted by the State that during the proceedings before the District Courts, a statement had been made by the learned counsel for the applicant that the applicant works as a water supplier.

At this stage, it is submitted by learned counsel for the applicant that the applicant was working earlier with the CRPF and has left that job and is now working in a private company.

Taking into account the totality of the circumstances of the instant case which bring forth also through the submissions made now on behalf of the applicant by learned counsel for the applicant that the applicant was apparently not working as a Major with the Indian Army and that thus, it is prima facie apparent that the prosecutrix prima facie appears to have been duped for entering into relationship with the applicant and thus the application seeking grant of anticipatory bail is declined.

ANU MALHOTRA, J

SEPTEMBER 20, 2021

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