

08.11.2017

Present : Sh. Ajit Kr. Srivastava, Ld. Addl. P.P. for the State with

IO W/SI Buglesh.

Complainant with counsel Sh. Anurag Sharma.

Sh. Vivek Aggarwal, counsel for the applicant.

Reply filed by the IO.

This is an application for anticipatory bail u/s 438 CrPC filed by the applicant. FIR was registered against the applicant u/s 376/506 IPC and lateron Section 328 IPC was also added. As per the allegations, the complainant was living in a PG at Laxmi Nagar. She met the applicant in March 2012 and they started talking and chatting on the phone. The applicant proposed the complainant for the relationship on the assurance of marrying her. On 31.12.2014, applicant took the complainant to a hotel/Guest House on the pretext of celebrating New Year alongwith one Amit Jain and his girl friend Manisha. There, applicant offered a drink to the applicant and thereafter, applicant went to sleep. When she woke up, she found herself naked and also found that she was bleeding from internal parts of her body and she was having marks on her body. The applicant again assured the complainant to marry her and on 02.01.2015, he also gave abortion pills to the complainant. The applicant again made physical relations with the complainant on 02.01.2015 but thereafter, the applicant avoided the

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8/11/2017



ACCEPTED
[Signature]

complainant on one or the other pretext and thereby marry the complainant.

Ld. Counsel for applicant has submitted that the applicant has been falsely involved in this case. It has been submitted that the complainant and applicant were friends for long time and had spent good time with each other which is reflected from the photographs filed alongwith the bail application. The complainant is a major girl. She had been seeking money from the applicant time and again and the applicant had deposited money in her account and also in her sister's account. The complainant and his family members have been threatening the applicant for extorting money and when applicant showed his inability, complainant threatened to implicate him in false case. Applicant had also purchased number of valuable items for the applicant on her demand from time to time. Applicant has been falsely implicated in this case. Applicant has also filed several photographs and bank statements alongwith the bail application in support of his arguments.

Per contra, Ld. Addl. P.P. has vehemently opposed the application and has submitted that the applicant has physically abused the complainant on the false pretext of marrying her. The allegations against the applicant are of serious nature and the applicant may threaten and harm the victim during the course of investigation. It has also been argued that the complainant has reiterated her stand in the statement given to the Ld. M.M. u/s 164 CrPC. It has been argued that the consent of the complainant was not a free consent as it was obtained under misrepresentation on the false pretext of marrying her.

In rebuttal, Ld. Counsel for the applicant has relied upon the judgment of Hon'ble High Court of Delhi in Rohit Chauhan Vs. State of NCT of Delhi decided on 22.05.2013 where in the similar circumstances, Hon'ble

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336/1996 titled as Uday Vs. State of Karnataka in support of his arguments.

Perusal of the record shows that complainant was admittedly in relation with the applicant since 2014 and this relationship continued till August 2017 as per the statement of the complainant recorded u/s 164 CrPC. The complainant has not made any complaint against the applicant from 2014 to 2017 despite the fact that the applicant did not marry her for entire period of three years. The photographs and the screen shots of the Whatsapp conversation also show good relations between the parties. The complainant is a well educated lady and had adequate intelligence to understand the significance and morality of the acts, even though the same were consensual. It is difficult to believe that the complainant remained under misconception for a long period of three years or that the applicant continuously misrepresented facts to her. Hon'ble High Court of Delhi in Rohit Chauhan's case had observed that promise to marry may or may not culminate into marriage. It is a prime responsibility of the woman in the relationship or even otherwise to protect her honour, dignity and modesty. The present case appears to be one of intimate cases where consensual physical relationship between the complainant and applicant has broken down and the complaint has been filed by the complainant for vengeance or to compel the applicant to get married to her.

Even though, Section 328 IPC has been added by the investigating agency but there is nothing on record to substantiate the provisions of said section. The applicant is not required for custodial interrogation as all the evidence has almost been collected by the investigating

:3:

8/11/2017



In view of the aforesaid facts and circumstances, I am inclined to grant anticipatory bail to the applicant. It is therefore, directed that in the event of arrest, applicant shall be released on bail on furnishing personal bond in the sum of Rs.30,000/- with one surety in the like amount to the satisfaction of IO/SHO of the PS concerned and subject to the following conditions :

- 1) That the applicant shall join the investigation as and when required by the IO/SHO;
- 2) That the applicant will not try to contact and influence prosecution witnesses and shall not tamper with evidence;
- 3) That the applicant will not leave India without obtaining prior permission from the court;

In case of violation of any of the aforesaid terms and conditions, the IO shall be at liberty to file appropriate application for cancellation of bail. The application stands disposed off accordingly.

A copy of this order be given dasti to the counsel for the applicant as well as to the IO.

Be consigned to record room.

8/11/17

(ANIL KUMAR SISODIA)

ASJ-04 (East)/KKD. Courts, Delhi/08.11.2017



ATTESTED
8/11/17
Incharge
Karkardooma Courts Delhi