

383
100
Bail Matters
STATE Vs.
FIR no. 1

U/S 354/354A/376 IPC

Pr: Mr. [] Ld. Addl. PP for the State.
Sh. [] Counsel for applicant/accused.
Prosecutrix in person alongwith Sh. [] Ld.
Counsel.
IO/SI [] in person.

By filing the present bail application under Section 439 Cr.P.C, the applicant/accused is seeking regular bail on the ground that applicant/accused is in JC since [] That the averments made in the FIR clearly gives the inferences and conclusion that the victim out of her free will and consent voluntarily and without and kind of threat, pressure, force, coercion, undue influences developed the physical and sexual relationship with the applicant herein and victim in her FIR has mentioned here the sexual relationship on 4 occasions and she was fully aware about the consequences of her act as per the FIR she came in contact of the applicant in the month of the December, 2020 and the present FIR has been lodged on [] Applicant/accused has been falsely implicated in the present case and nothing to do with the present case, as applicant/accused has not committed any offence as alleged by prosecution.



Cont.

Reply had already been filed on behalf of IO.
 Ld. APP strongly opposed the bail application,
 Heard. Perused.

During hearing, Ld. Counsel submitted that the applicant/accused falsely implicated in the present case as cleared from the documents placed on record at page no. 10 (Office order no. [] and 11 (Attendance Register). The complaint of the complainant falsified as renewal of th [] HFP is valid w.e.f. [] to [] and so far as the allegation in respect to the alleged offence dated [] are concerned as per attendance register of the SDM concerned, she has hold the Spam at his work place as cleared from the attendance register and relied upon the judgment of Hon'ble Allahabad High Court in the matter of "*Vishnu v. State of UP; Crl Appeal no. 204/2021*" and Judgment of Hon'ble High court of Delhi in the matter of "*Laishram Premila Devi & Ors. v. The State & Ors., Crl M. C. No. 534/2021*".

On being enquired, since it has been alleged that the prosecutrix has been called, therefore, it is being enquired from the prosecutrix how she had been called then she replied that she had been called through mobile phone, consequently, it is being further enquired from the IO that whether IO has seized the mobile phone of the accused and any investigation has been done from the mobile phone of the prosecutrix or whether at the time of arrest, the mobile phone has taken into custody and also whether the accused had been taken PC remand, then IO replied
 cont.



that phone of the applicant/accused has not been taken into custody or seized because the messages/chats on whatsapp or any other social media can not be retrieved from the service provider as all the chats have already been stated to be deleted by the accused as well as prosecutrix, however, it is submitted that she has applied for the CDR of the mobile phone of the applicant/accused. In response to the report having been filed by her without forwarding by SHO/Inspector concerned, no proper reply has been given.

Considering the facts and circumstances as well as keeping in view that since the accused has running in JC since [redacted] and had never been taken in PC remand as submitted, as such no further custodial interrogation of the applicant/accused is required, hence in the interest of justice applicant/accused is granted bail on furnishing personal bond for a sum of Rs. 40,000/- with one surety of the like amount. Applicant/accused shall not try to contact or threat the prosecutrix in any manner.

Let the conduct of the IO be sent to the DCP concerned.

With these observations, application is disposed off.

ps



सत्य प्रति से प्रमाणित
ATTESTED TRUE COPY

अनुमति प्राप्त, जम्मू
CHARGE INCHARGE BAIL SECTION
जम्मू, 21/11/2019
जम्मू जिला न्यायालय, जम्मू