

# Dr Hemlata Pathak vs The State Govt Of Nct Of Delhi on 4 January, 2022

**Author: Rajnish Bhatnagar**

**Bench: Rajnish Bhatnagar**

(VIA VIDEO CONFERENCING)

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ BAIL APPLN. 7/2022  
DR HEMLATA PATHAK

Through: Mr. Subhash Bisaria,

versus

THE STATE GOVT OF NCT OF DELHI ..... Respondent  
Through: Mr. Amit Ahlawat, APP for the State  
with SI Naveen Dahiya, PS  
Kalyanpuri.

CORAM:  
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR  
ORDER

% 04.01.2022 CRL.M.A. 23/2022(for exemption) Exemption allowed subject to just exceptions.

The application stands disposed of.

1. This is a petition filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in FIR No. 265/2021 under Sections 380/506 IPC registered at Police Station Kalyanpuri.

2. The abovementioned FIR was lodged on 11.06.2021 on the complaint of Manoj Kumar. The brief facts of the case are that approximately two years ago the complainant engaged in friendly relations with Hemlata Pathak (Petitioner herein), who is an astrologer and both of them exchanged their numbers on Facebook. The complainant and the Petitioner met for the first time near Chand cinema Trilokpuri and after that they used to meet (VIA VIDEO CONFERENCING) often and also, went sight-seeing to different places. In February, 2021, Petitioner herein visited the complainant at his house situated at 8/61, Trilokpuri. The complainant had gone out to buy a few things and when he returned, he did not find her at home. The complainant called the petitioner on her mobile phone 9336637531, to which she responded that she had come out for some work and will meet him later. After her departure when the complainant searched the house, it came to his knowledge that a gold

chain, one ring and twenty-two thousand rupees were missing. When the complainant enquired from petitioner about the missing items then she warned him to forget those items. Thereafter, the petitioner started threatening complainant that if he said anything about the lost items then she will trap him in a false case. The petitioner has also threatened complainant's wife, namely, Vandana. Hence, the instant FIR was lodged.

3. I have heard the learned counsel for the petitioner and the learned APP for the state and perused the status report filed by the state.

4. It is submitted by the learned counsel for the petitioner that petitioner has been falsely implicated in this case and the instant FIR is only a counterblast of FIR No. 342/2021, which was lodged by the petitioner against the complainant on 27.05.2021 at P.S. Gomti Nagar, Lucknow, U.P under sections 494/506/294/376/377/354 IPC. It is further submitted that as per the FIR, the alleged incident took place on 14.02.2021 and the present case was lodged on 11.06.2021 and there is no explanation regarding the delay of about four months in lodging the instant case. Learned counsel for petitioner submitted that the petitioner was duly cooperating and has joined investigation on 24.10.2021, however, a false report was given to the concerned court stating that the petitioner is not cooperating. It is further (VIA VIDEO CONFERENCING) submitted that the petitioner has also written to the ACP of Kalyanpuri, New Delhi, for conserving the CCTV footage of P.S. Kalyanpuri dated 24.11.2021, particularly between 12: 30 p. m. to 4:30 p.m. of Dr. Hemlata Pathak (petitioner herein) joining investigation in Case Crime No.-265/2021 under sections 380/506 IPC. It is submitted by Ld. counsel for the petitioner that on account of threats and continuous harassment from complainant, the petitioner had to abandon her scheduled visit to Delhi to argue her case in person on 06.12.21 for final disposal of the Anticipatory bail and she also, sent an e-mail dated 06.12.2021 regarding the same to the bail section of Karkadooma court, Delhi. It is further submitted that the complainant is a notorious criminal and has criminal antecedents. Learned counsel for petitioner has relied upon *Param Bir Singh v. The State of Maharashtra & Ors.* (SLP No. 8788/2021, order dated 22.11.2021)

5. Issue notice. Learned APP appears on advance notice, and accepts notice.

6. Learned APP for the state, on the other hand, vehemently opposed the bail application and submitted that the bail application is not maintainable since proceedings under section 82 Cr.P.C. have been initiated against the petitioner on 08.12.2021. It is further submitted that the petitioner has joined the investigation only once i.e., on 24.10.2021 and also, on that day she failed to cooperate in the investigation. It is further submitted that IO with aid of local police officials approached the petitioner twice in Lucknow and notice was given to her twice to join the investigation, however, instead of cooperating with IO, the petitioner threatened the IO stating „why you have come here . Learned APP for the state submitted that initially the FIR was lodged under sections 494/294/506 IPC but petitioner blatantly denied (VIA VIDEO CONFERENCING) having any relation with complainant, despite of the fact that multiple hotel entries were found of the petitioner and the complainant, in fact, some of them were even made by the petitioner herself. It is further submitted that the complainant has made numerous complaints against the petitioner that she is extorting from the complainant and is even threatening wife of complainant. It is further

submitted that the CDR of the petitioner has also corroborated the fact and confirmed her location at the house of complainant on the date of incident. Learned APP for the state submitted that the stolen articles are a gold chain, one ring and twenty-two thousand rupees and custodial interrogation of the petitioner is required for recovery of the stolen articles.

7. Learned APP for the state has relied upon Prem Shankar Prasad v. State of Bihar & Anr. (Criminal Appeal NO. 1209/2021) decided by the Hon'ble Supreme Court on October 21, 2021 in which it has been held that "if anyone is declared as an absconder/proclaimed offender in terms of Section 82 of the Code, he is not entitled to the relief of anticipatory bail."

8. In the present case, the petitioner stands accused of stealing a gold chain, one ring and twenty-two thousand rupees. The CDR of the petitioner has also confirmed her location at the house of complainant on the date of incident. There is nothing before this court to believe that the petitioner is willing to join and cooperate in the investigation. As per the submissions of learned APP, the petitioner has joined the investigation only once on 24.10.2021 and on that day as well, she failed to cooperate in the investigation. Therefore, the petitioner has failed to manifest her willingness in joining the investigation despite the indulgence granted by the Session Court.

(VIA VIDEO CONFERENCING)

9. The prayer is untenable in law. Hence, this Court does not deem it appropriate to issue notice to the respondent.

10. Be that as it may, looking into the conduct of the petitioner and considering the fact that PO proceedings already stand initiated against the petitioner on 08.12.2021, the custodial interrogation of the petitioner is required for thorough investigation and for recovery of the stolen articles which are a gold chain, one ring and twenty-two thousand rupees. As far as the judgment relied upon by the counsel for the petitioner is concerned, the same delves on its facts. The petitioner is not entitled to anticipatory bail and the application is, therefore, dismissed.

11. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

RAJNISH BHATNAGAR, J JANUARY 4, 2022 P