

## Abhishek Kumar vs State Nct Of Delhi on 4 April, 2025

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision:

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BAIL APPLN. 4410/2024

ABHISHEK KUMAR

Through:

Mr. Amit Srivastava, Ad

versus

STATE NCT OF DELHI

Through:

Mr. Nawal Kishore Jha,

State with SI , PS

Mr. Jatin Sharma and Mr

Kumar Singh, Ad

complainant de

complainant de facto in

CORAM:

JUSTICE GIRISH KATHPALIA

### J U D G M E N T (ORAL)

1. Learned APP has filed Status Report which is accepted across the board, to be scanned and made part of the file. Copy is stated to have already been supplied to both sides.

2. I have heard learned counsel for accused/applicant, learned APP assisted by IO/SI Ashutosh Mishra as well as two counsel appearing on behalf of complainant de facto. I have heard the complainant de facto as well.

BAIL APPLN. 4410/2024

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3. The accused/applicant being husband of complainant de facto, seeks anticipatory bail in case FIR No.366/2024 of PS Mehrauli for offences under Section 498A/406/313/34 IPC and Section 3/4 of Dowry Prohibition Act.

4. It is submitted by both counsel appearing on behalf of complainant de facto that marriage between the parties was a love marriage but subsequently, the accused/applicant developed relations with one Kanchan named in the FIR itself and therefore, he has not been paying any maintenance to the complainant de facto.

5. On the other hand, it is contended by counsel for accused/applicant that the present complaint was filed by the complainant de facto as a counterblast to the divorce petition filed against her by the accused/applicant.

6. Broadly speaking, apart from allegations pertaining to Section 498A/406 IPC, the complainant de facto also alleged offence punishable under Section 313 IPC against the accused/applicant. According to the complainant de facto on 15.03.2021, the accused/applicant caused her miscarriage by administering certain medicines prescribed by Dr. Monika Chaudhary and again caused her miscarriage on 14.06.2021 by kicking her abdomen after which she became unconscious and visited Dr. Priyanka Yadav on 17.08.2021.

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7. Neither any medical record of the alleged miscarriages nor any contemporaneous complaints are there. Further, even according to the complainant de facto, the second miscarriage took place on 14.06.2021 and she became unconscious, but the doctor she visited was on 17.08.2021.

8. Learned prosecutor admits that there is no reliable evidence of any miscarriage caused to the complainant de facto by anyone insofar as neither there is any MLC/medical prescription nor any police complaint; and even the two doctors named by the complainant de facto have not supported her version of the miscarriages.

9. During investigation, the IO also recorded statements of both doctors but neither of them support the version of the complainant de facto. According to the IO, chargesheet is ready to be filed and he had added the offence under Section 313 IPC only after dismissal of anticipatory bail application by the Court of Sessions, but he has not been able to find any cogent material to support the allegation of causing of miscarriages.

10. Complainant de facto seeks to place reliance on certain audio recordings, in which the accused/applicant allegedly admitted having kicked the complainant de facto, thereby causing miscarriages. I have heard those audio recordings in Court and prima facie it appears that the same can be BAIL APPLN. 4410/2024 Page 3 of 4 pages GIRISH Digitally signed by GIRISH KATHPALIA DN: c=IN, o=HIGH COURT OF DELHI, ou=DELHI HIGH COURT, 2.5.4.20=8401dd889b27a77b2f65ffffe4afec45569af3962c6fb4835d435 f97626cacca, postalCode=110003, st=DELHI, KATHPALIA serialNumber=D3E86796451EC45C07B5D15570996B40F80CBD2EEE60402C487965FF801E26FA, cn=GIRISH KATHPALIA Date: 2025.04.04 13:50:01 -07'00' interpreted either way. According to learned counsel for accused/applicant, those recordings have to

be tested through trial and presently there is no reliable evidence of the accused/applicant having caused any miscarriage.

11. It is nobody's case that any custodial interrogation of the accused/applicant is required.

12. Considering the above circumstances, I do not consider it appropriate to deprive the accused/applicant liberty. Therefore, the anticipatory bail application is allowed and it is directed that in the event of his arrest, the accused/applicant shall be released on bail subject to his furnishing a personal bond in the sum of Rs. 10,000/- with one surety in the like amount to the satisfaction of the IO/SHO. It is also directed that the accused/applicant shall join investigation, as and when directed by the IO in writing.

13. It is made clear that none of the above observations shall have any bearing on the final outcome of the trial.

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