

\$~6

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

BAIL APPLN. 3221/2019

BHEEMRAJ BADERA

..... Petitioner

Through: Mr. Jitendra Sethi, Advocate.

versus

STATE

..... Respondent

Through: Ms. Meenakshi Dahiya, APP for State
along with SI Shashi, P.S. Roop
Nagar, Delhi.
Ms. Aishwarya Rao and Ms. Mansi
Rao, Advocates (DHCLSC) for the
prosecutrix.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

ORDER

21.09.2021

%

1. The present bail application has been filed under Section 438 Cr.P.C. on behalf of the applicant seeking anticipatory bail in FIR No. 185/2019 registered under Section 376 IPC at Police Station Roop Nagar, Delhi.
2. Mr. Jitendra Sethi, learned counsel for the applicant, submits that as per the prosecution case, the relationship between the parties began in April, 2016 while they were studying for post-graduation. He submits that as per the allegations in the FIR, the applicant met the prosecutrix on 15.04.2016 whereafter he took her from Nehru Place to his friend's house and established physical relations. He submits that the present FIR came to be

lodged on 11.12.2019, i.e. after a delay of 3 ½ years. In support of his submissions, learned counsel for the applicant has referred to the screenshots of WhatsApp chat exchanged between the parties on 17.04.2016 as well as the letter of October, 2018 written by the prosecutrix to the applicant. He has also referred to the WhatsApp chats exchanged between the parties in the month of August, 2019 wherein the prosecutrix is alleged to have come to know about the engagement of the applicant with some other girl. It is stated that despite knowledge of the same, physical relations were established between the parties even in the month of September, 2019 as per the allegations levelled in the FIR. Learned counsel also submits that the prosecutrix is a mature lady who was 25 years of age at the time of entering into physical relations with the applicant and despite the applicant stating on a number of occasions that he would not go against the decision of his family members in relation to his marriage, she continued to establish physical relations with him. It is also submitted that the charge sheet in the present case has been filed and the matter is now fixed before the Trial Court for framing of charge on 28.10.2021. While referring to the order dated 05.02.2020, learned counsel for the applicant submits that the mobile phone seized from the applicant was sent to FSL for examination, however, no obscene photographs or video of the prosecutrix were found stored therein. Lastly, it is submitted that in pursuance of the interim protection granted to the applicant, he has joined the investigation and not misused the concession granted to him.

3. Ms. Meenakshi Dahiya, learned APP for the State, duly assisted by Ms. Aishwarya Rao, learned counsel on the panel of DHCLSC and representing the prosecutrix in the present case, has vehemently opposed the

bail application. It is submitted that the applicant forced the prosecutrix to enter into physical relations on the pretext of false promise to marry her. It is further stated the applicant continued to physically exploit the prosecutrix over a period of three years. Learned APP for the State, on instructions, additionally submits that as per the FSL report, WhatsApp chats placed on record were found existing in the mobile phone of the applicant, however, no obscene photographs or video of the prosecutrix have been found stored therein.

4. I have heard the learned counsels for the parties and perused the materials placed on record.

5. As per the materials placed on record, especially the WhatsApp chats, it can be seen that the applicant on a number of occasions had stated that the marriage between the prosecutrix and him is uncertain, as he would not go against the wishes of his family members. The aforesaid stand of the applicant has also been acknowledged by the prosecutrix. The messages exchanged between the parties would show that the prosecutrix became aware of the applicant's engagement with some other girl in the month of August, 2019 and despite that, physical relations are stated to have been established again in the month of September, 2019.

6. Keeping in view the aforesaid discussion and the fact that the charge sheet has been filed, it is directed that in the event of arrest, the applicant be released on anticipatory bail, subject to his furnishing a personal bond in the sum of Rs.25,000/- with one surety of like amount to the satisfaction of the Arresting Officer/Investigating Officer/SHO of the concerned police station and subject to the following further conditions:-

- i) The applicant shall remain available on mobile number:

9716647608, which he undertakes to keep operational at all times during the pendency of the trial;

- ii) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence;
- iii) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Investigating Officer/SHO as well as to the concerned Court;
- iv) The applicant shall regularly appear before the concerned Court during the pendency of the trial.

7. The bail application is disposed of in the above terms.

8. Copy of this order be uploaded on the website forthwith.

9. Nothing stated hereinabove shall be construed as an expression on the merits of the case. The observations are only *prima facie* and have been made to dispose of the present bail application.

MANOJ KUMAR OHRI, J

SEPTEMBER 21, 2021

'dc'

Click here to check corrigendum, if any