

(2021) 09 DEL CK 0134
In the Delhi High Court
Case No : Bail Application No. 3399 Of 2021

Rahul Kushwaha

APPELLANT

Vs

State Of Gnt Of Delhi

RESPONDENT

Date of Decision : 14-09-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164
Indian Penal Code, 1860 — Section 376

Citation : (2021) 09 DEL CK 0134

Hon'ble Judges : Mukta Gupta, J

Bench : Single Bench

Advocate : Lokesh Kumar Mishra, Arti Baghel, Himanshu Sharma, Sahibe Alam, Tarang Srivastava, Saraswati Bhardwaj

Final Decision : Disposed Of

Judgement

Mukta Gupta, J

The hearing has been conducted through Video Conferencing.

CRL.M.A. 14548/2021

Exemption allowed subject to just exception.

BAIL APPLN. 3399/2021

1. By this petition the petitioner seeks anticipatory bail in case FIR No. 294/2021 under Section 376 IPC registered at PS New Ashok Nagar.
2. Learned counsel for the petitioner contends that even as per the case of the prosecutrix the parties were in a live-in relationship and initially her father did not agree to marry as he did not like the petitioner, however he agreed subsequently. In the FIR the main allegation is that under pressure the complainant was made to spend ₹ 1,25,000/-, which amount has already been transferred to the account of the complainant.

3. Learned APP for the State has taken this Court through the FIR and the statement of the prosecutrix recorded under Section 164 Cr.P.C. He states that though the case of the prosecutrix was that they were in relationship but initially she was raped. Further she has alleged of harassment and torture and that the petitioner made her to spend the entire amount.

4. Learned counsel for the prosecutrix is also present and has addressed arguments. According to her, after establishing relationship the petitioner refused to marry her. Petitioner also harassed and mentally tortured the prosecutrix. Besides she was the one who had to bear all the expenses and her credit card of Punjab National Bank was also snatched by the petitioner which she got blocked thereafter.

5. The allegation of the prosecutrix in the above-noted FIR are that in September, 2017 she came to Delhi for a job to help the family financially and lived as a paying guest for about one and a half year. During this period she met the petitioner where she was doing the job and both of them became friends. The petitioner was staying at Laxmi Nagar and thereafter changed his flat to West Guru Angad Nagar, Laxmi Nagar. Thereafter, both of them discussed about the marriage between them with their families. However, her father did not like Rahul and he declined the marriage proposal. Thereafter Rahul pressurized her so that she could persuade her parents and on the persuasion of the prosecutrix her parents agreed for the marriage in August, 2019.

6. According to the prosecutrix thereafter the petitioner called her at his other flat and established physical relations contrary to her wishes claiming that since the parents have now agreed, now there was no problem. It is alleged that the petitioner has been establishing relationship with her and when she used to refuse to anything, he used to assault her by turning her hand. She further alleged that she used to bear all the expenses which were around ₹ 1,25,000/-. On one day the petitioner even snatched her credit card of Punjab National Bank which she got blocked. Thereafter in December, 2020 he started staying in New Ashok Nagar and got her also a flat in the same area. He would call her at her flat and establish relationship. In May, 2021 the prosecutrix suffered from COVID and was isolated. Thereafter, when her condition improved, she talked to her father on phone and went to her home, whereafter her father got her treatment. After she recovered, she came with her father to lodge the FIR and during inquiry Rahul and his family members sought apology. Since she was in depression though she did not want to settle the matter but she settled and Rahul transferred a sum of ₹ 1,25,000/- to her account. Her father took her back to the native place and got her treated and when she had come back she had lodged the FIR in question.

7. From the statements of the prosecutrix itself it is evident that both the petitioner and prosecutrix were in a live-in relationship and both persuaded their families for the marriage and initially it was the prosecutrix's family which did not agree, however later her father agreed for the marriage. No reason has been

given as to why the marriage was not performed thereafter.

8. Be that as it may, the main grievance of the prosecutrix is that she was made to bear the expenses. In a live-in relationship where both the partners are living together, it is not that only one partner has to bear the expenses and in case expenses are born by the prosecutrix or both bear the expenses, the same would not be a criminal offence. Though it is claimed that the prosecutrix was assaulted, however there is neither any complaint nor the MLC which shows that the petitioner used to assault her.

9. Considering the nature of allegations levelled in the FIR this Court deems it fit to grant anticipatory bail to the petitioner. Consequently, in the event of arrest the petitioner is directed to be released on bail on his furnishing a personal bond in the sum of ₹ 25,000/- with one surety bond of the like amount subject to the satisfaction of the Arresting Officer/ SHO concerned, further subject to the condition that he will join the investigation as and when directed and in case of change of residential address and/or mobile phone number, the same will be intimated to the investigating officer till the filing of the charge-sheet and thereafter to the concerned Court. Further, the petitioner will not leave the country without the prior permission of the Trial Court.

10. Petition is disposed of.

11. Order be uploaded on the website of this Court.