

(2021) 02 DEL CK 0125

In the Delhi High Court

Case No : Bail Application No. 3128 Of 2020, Criminal Miscellaneous Application
No. 15315 Of 2020

Sanjay

APPELLANT

Vs

State Govt. Of Nct Delhi & Anr

RESPONDENT

Date of Decision : 12-02-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439, 482
Indian Penal Code, 1860 — Section 376, 506

Citation : (2021) 02 DEL CK 0125

Hon'ble Judges : Rajnish Bhatnagar, J

Bench : Single Bench

Advocate : Sahil Mongia, Rajni Gupta, Anil Devlal

Final Decision : Disposed Of

Judgement

Rajnish Bhatnagar, J

1. By way of this order, I shall dispose of the present bail application filed under Section 439 Cr.P.C. read with Section 482 Cr.P.C. on behalf of the

petitioner for grant of regular bail in case FIR No. 656/2020 registered U/s 376/506 IPC at Police station Ranhola, Delhi.

2. Briefly stated, the allegations against the petitioner as per the complaint of the victim/complaint are that she met one Rajiv more than 6 years ago

when she alongwith her husband mortgaged property bearing No. A-154 Sainik Enclave Gali No. 4 for a total amount of Rs. 4 lakh. According to the

complainant, she met one Sanjeev in the office of Rajeev. Later on 29 September 2016, she received a call from Sanjay (present petitioner) who

asked her to meet him one time by saying he had taken the documents of her property from Sanjeev. She went to meet Sanjay, who gave her a glass

of cold drink and after drinking the same she became unconscious. When she regained consciousness after about 2 hours, petitioner showed her nude photos and videos. Then petitioner blackmailed her to have physical relations with him. After that petitioner called her to his home and forced her to make physical relations with him by threatening her and showing her nude photos and videos. According to the complainant, he continued this till May, 2019. When the complainant / victim demanded her property papers, petitioner replied that the papers are now with one Satish who is the financier and now she would have to make him happy, only then she will get the papers. When the complainant/victim refused the same stating that she would make a complaint against the petitioner to the police then, petitioner threatened her to kill. According to the complainant/victim last time petitioner had made physical relation with her on 6 December 2019. It is further alleged by the victim/complainant that she told petitioner that he has ruined her life and asked him to keep her but the petitioner was not ready to keep her with him. On the basis of above allegations made by the complainant/victim, the present case was registered.

3. I have heard the Ld. counsel for the petitioner, Ld. APP for the State, Ld. counsel for the victim/complainant and also perused the status report filed by the state.

4. It is submitted by the Ld. counsel for the petitioner that the petitioner is in J.C. since 23.06.2020. At the outset, counsel for the petitioner submitted that the petitioner was a married woman when she first met the petitioner. He further submitted that the petitioner has been falsely implicated and it was a consensual relationship which is evident from the fact that respondent No. 2 has got the name of the petitioner permanently tattooed on her forearm which shows her love towards the petitioner. He further submitted that respondent No. 2 had sent photograph of the tattoo to the petitioner via email on two occasions dated 13.12.2019 and 22.01.2020. He further submitted that respondent No. 2 has clicked selfies with the petitioner, exchanged garlands with him, attended festivities and celebrated functions which is evident from the photographs filed on record. He further submitted that the respondent No. 2 has even sent friend request to the petitioner on face book. He further submitted that the respondent No. 2 was in love with the petitioner and when she failed to convince the petitioner to maintain ties

then she got the present case registered. He further submitted that there is a delay of about 7 months in the registration of the FIR. He further submitted that the house in which the prosecutrix claimed to have been kept by the petitioner was in fact let out to the prosecutrix. He further submitted that during this long period of their association of around 4 years, she never made complaint to her husband.

5. On the other hand, Ld. APP for the State has argued on the lines of the status report.

6. In the present case, according to the prosecutrix she met the petitioner for the first time on 29.09.2016. At that time she was married to one

Mahesh and she had gone with him to mortgage her property papers. According to the prosecutrix between 29 September, 2016 till May 2019 the

petitioner kept on making physical relations with her by showing her nude photographs and again he made physical relations with her on 6 December,

2019. The prosecutrix kept quiet for 3 long years and did not make any complaint against the petitioner and she even did not inform her husband about the acts of the petitioner.

7. The contention of the counsel for the petitioner is that the prosecutrix was in love with the petitioner. The prosecutrix in the instant case is a married

woman and she got engraved tattoo of the petitioner on her forearm which according to her was forcefully engraved by the petitioner when she was

in captivity in his house from 25.01.2020 to 15.04.2020. In my opinion, making of tattoo is an art and special machine is required for the same.

Moreover, it is also not easy to make such a tattoo which is on the forearm of the complainant if there is some resistance from the other side. It is not

everybody's job and it is also not the case of the prosecutrix that the petitioner had anything to do with the tattoo business.

8. One of the allegations of the complainant/prosecutrix is that she was confined in the house by the petitioner from 25.01.2020 to 15.04.2020,

however, the charge sheet revealed that the said house was taken on rent by the complainant herself and the enquiries from one Naveen Sharma,

landlord revealed that the prosecutrix was residing alone in the said house. There are allegations from the side of the prosecutrix in regard to the

threats extended to her but as per the status report no threats were extended by the petitioner or on his behalf as alleged by the prosecutrix.

9. The status report reveals that at the time of arrest the mobile phone of the petitioner was seized but no nude photographs were found. It is further revealed in the status report that there were no recording of threats as alleged by the prosecutrix. Therefore, in these circumstances her mobile was not seized. There is a delay in registration of FIR, though delay is not fatal in every case but at this stage, no opinion is being expressed on the aspect of delay in lodging the FIR.

10. Without commenting on the merits, in the facts and circumstances of this case, the application is allowed and the petitioner is admitted to bail on his furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the concerned Court below.

The bail application is disposed of accordingly. All pending applications (if any) are also disposed of accordingly.

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