

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 15th MARCH, 2022

IN THE MATTER OF:

+ **BAIL APPLN. 401/2022**

GAURAV MALIK

..... Petitioner

Through Mr. Rajeev Kumar, Advocate

versus

STATE OF NCT DELHI & ORS

..... Respondent

Through Mr. Amit Chadha, APP for the State,
with SI Akansha, P.S. Khyala

+ **BAIL APPLN. 442/2022**

RANJEET SINGH

..... Petitioner

Through Mr. Sumit Gaba, Advocate

versus

STATE

..... Respondent

Through Mr. Amit Chadha, APP for the State,
with SI Akansha, P.S. Khyala

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.

1. These petitions have been filed under Section 438 Cr.P.C. seeking grant of bail to the Petitioners in the event of arrest in FIR No. 53/2022 dated 11.01.2022 registered at Police Station Khyala for offences under Sections 376/376(2)(n)/323/342/34 of the Indian Penal Code, 1860

(*hereinafter*, “IPC”) and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (*hereinafter*, “POCSO”).

2. The facts, in brief, leading up to the filing of both the petitions are as follows:

- a) It is stated that the prosecutrix is a sales girl at a jewellery shop in Karol Bagh. She has been separated from her husband since 2012, however, she has been residing at a flat in Uttam Nagar which is the name of her husband.
- b) On 10.03.2019, while the prosecutrix was at her job, she received a call from a friend of her husband, Ranjit Singh Chauhan (Petitioner in BAIL APPLN. 442/2022) who informed her that both her children – a son of 18 years of age, and a daughter of 15 years of age – were with him and he asked her to come home quickly. The prosecutrix rushed home to find Ranjit Singh, along with four persons, namely Vinay Bhasin, Sunil Kumar Sheela, Raghu Bansal and Shamsher Singh.
- c) It is stated that Ranjit Singh asked the prosecutrix to vacate the home, and when she refused to do so, he threatened to harm her children who had allegedly been held captive by him and were in his car which was parked outside the home. Out of fear, the prosecutrix silently went and sat in the same vehicle, and all three were taken to a house in Shyam Nagar.
- d) It is stated that Ranjit Singh kept the prosecutrix and her children in that house till 30.05.2019. He portrayed to the landlord that they were his family. He would instruct some of his men to keep an eye on the prosecutrix and her children, and

would tell them to take the children outside the house. When the children were taking outside the house, Ranjit Singh would repeatedly rape the prosecutrix. It is stated that when the landlord asked Ranjit Singh to pay the rent, he quarrelled with him and forced the prosecutrix to file a complaint against the landlord in Police Station Tilak Nagar. A compromise was executed between the landlord and Ranjit Singh thereafter and the house at Shyam Nagar was vacated.

- e) It is stated that the prosecutrix and her children were then shifted to a house in Ashok Nagar and were kept there till 28.09.2019, and the prosecutrix was raped at this house repeatedly as well by Ranjit Singh. Similar quarrels arose with the landlady of that house and it had to be vacated.
- f) The prosecutrix was then taken to a house in Shivaji Enclave and kept there till 22.02.2020. It is stated that the house belonged to one Menka Chaturvedi, and that in this house, Gaurav Malik (Petitioner in BAIL APPLN. 442/2022) threatened the prosecutrix to have sexual relations with him. He would further beat the prosecutrix in order to make the Shivaji Enclave house in his and Ranjit Singh's name.
- g) It is stated that the daughter of the prosecutrix would be forced to visit the gym and that the Ranjit Singh would then rape her as well, along with one Sachin Demble @ Chintu and one Rameshwar Dass, who would also rape the daughter of the prosecutrix at a hotel in Vikas Puri and a factory in Mayapuri. The daughter was threatened with being shot if she dared to

reveal these incidents to her mother and her brother. Ranjit Singh had also snatched the phones of the prosecutrix and her children.

- h) It is stated that the prosecutrix escaped Ranjit Singh and gave a compliant at P.S. Rajouri Garden and then it was sent to P.S. Tilak Nagar and that after that, it was sent to P.S. Khyala. However, no action was taken. The prosecutrix was later called to P.S. Khyala and then her statement was taken, on the basis of which the instant FIR was registered.
- i) Anticipatory bail filed by the Petitioner in BAIL APPLN. 401/2022 before the Ld. Trial Court was dismissed *vide* Order dated 28.01.2022. Anticipatory bail by the Petitioner in BAIL APPLN. 442/2022 before the Ld. Trial Court was dismissed *vide* Order dated 29.01.2022. The Petitioners have now approached this Court seeking bail under Section 438 Cr.P.C.

3. Mr. Rajeev Kumar, learned Counsel for the Petitioner/Gaurav Malik in BAIL APPLN. 401/2022, submits that the Petitioner has been falsely implicated in the instant case, and that he runs a grocery shop and has been residing at his permanent residence for the past 20 years with his wife, children and aged parents. He states that the accommodation at Shivaji Enclave had been shown by the Petitioner to the prosecutrix in good faith, and that on 23.02.2020, the Petitioner received a call from the landlady, Ms. Menka Chaturvedi, that the prosecutrix had illegally trespassed into the property and was claiming that one Ranjeet had shifted them. He states that the prosecutrix had misbehaved with the landlady and police had been called, as a result of which the prosecutrix had been requested to vacate the

property.

4. Mr. Kumar submits that it was only due to the police intervention as well as the intervention of the Petitioner herein that the prosecutrix had been made to leave the property, and that for this reason, the prosecutrix had levelled false allegations against the Petitioner. The learned Counsel for the Petitioner further submits that the prosecutrix and her daughter have previously filed complaints against other persons, with the daughter of the prosecutrix having lodged FIR No. 529/2021 at P.S. Moti Nagar under Sections 354 IPC, Section 8 POCSO Act, Sections 3 and 4 of the Child Labour Act, and Section 79 of the Juvenile Justice Act. He further states that the prosecutrix has lodged two FIRs at P.S. Bindapur, being FIR No. 686/2015 and 699/2015. Mr. Kumar, therefore, submits that the prosecutrix is a habitual complainant, and has filed many more complaints at various police stations.

5. The learned Counsel for the Petitioner in BAIL APPLN. 401/2022 refers to Circular No. 15/2020 issued by the Office of the Commissioner of Police, Delhi, in pursuance of directions of this Court in BAIL APPLN. 2813/2020 titled “Kapil Gupta v. State”, wherein it is stated that in *prima facie* cases of honey-trapping, the Investigating Officers are directed to take utmost care while investigating such cases, without causing undue harassment to the accused persons, and to check the credentials of the prosecutrix as well. He states that in the instant case, no FIR has been given to the Petitioner as well.

6. Mr. Sumit Gaba, learned Counsel for the Petitioner/Ranjeet Singh in BAIL APPLN. 442/2022, submits that the Petitioner has been falsely implicated in the instant matter and the allegations against him are concocted

in order to hide the prosecutrix's illegal acts. He states that the prosecutrix had approached the Petitioner in February 2019, representing herself as the owner of the property in Uttam Nagar, and agreement to sell and purchase of the said property was executed between them on 26.02.2019 for a total consideration of Rs. 9,00,000/-, out of which, the prosecutrix received Rs. 1,00,000/- from the Petitioner as earnest money.

7. Mr. Gaba submits that a further Rs. 3,00,000/- were paid by the Petitioner to the prosecutrix in furtherance of the agreement and that the prosecutrix handed over a copy of false and fabricated documents to the Petitioner regarding the allegedly disputed property. He states that when the Petitioner was made aware of the property's status, he demanded his money back, to which the prosecutrix stated that she would do so within six months. However, she failed to pay the said amount on some pretext or the other. Mr. Gaba states that a complaint in this regard has been filed by the Petitioner at P.S. Bindapur.

8. The learned Counsel for the Petitioner submits that the instant FIR against the Petitioner has only been lodged as a means to threaten and coerce the Petitioner to not press for the money that has been extorted by the prosecutrix. He also submits that several other FIRs have been filed by the prosecutrix and this indicates that the prosecutrix is a habitual complainant with ulterior motives. Mr. Gaba submits that the Ld. Trial Court did not consider the facts of the matter before dismissing the Petitioner's anticipatory bail application.

9. *Per contra*, Mr. Amit Chadha, learned APP for the State, submits that the anticipatory bail applications of the Petitioners have been previously dismissed by the Ld. Trial Court and that their custodial interrogation would

be required to unravel the gravity of the offences committed as well as to figure out the whereabouts of the other co-accused. Vehemently opposing the bail applications, Mr. Chadha submits that the allegations in the FIR are of a serious nature and that the daughter of the prosecutrix was a minor when she was forced into prostitution by the landlady of the Shivaji Enclave flat wherein she was made to enter sexual relations with many men, including the Petitioners herein.

10. Mr. Chadha informs this Court that the matter herein is intricate and requires the whereabouts the other co-accused so as to discern the exact nature of the issue involved. He states that though the Petitioners had joined investigation on 25.01.2022, however, they did not disclose any information regarding the co-accused. The learned APP submits that in order to unravel the extent of the prostitution ring and keeping in mind the heinousness of the allegations in the FIR, anticipatory bail should be denied to both the Petitioners.

11. Vide order dated 03.02.2022, this Court had directed the prosecutrix to be informed by the concerned Investigating Officer about the next date of hearing. Consequently, a lawyer appeared for the prosecutrix before this Court, however, he did not file his *Vakalatnama* and no memo of appearance was provided on his behalf.

12. Heard Mr. Rajeev Kumar for Petitioner in BAIL APPLN. 401/2022, Mr. Sumit Gaba in BAIL APPLN. 442/2022, Mr. Amit Chadha, learned APP for the State, and perused the material on record.

13. The Status Report on record indicates that the Section 164 Cr.P.C. statements of the prosecutrix and the daughter corroborate the version of the allegations in the FIR. The statements further add that Petitioner in BAIL

APPLN. 401/2022, along with Vinay Bhasin, Raghu Bansal and Shamsher, had sexual intercourse with the minor daughter and that the landlady, Menka Chaturvedi, forced them into prostitution work. Furthermore, when the prosecutrix and the daughter refused to do the work, they were beaten by Menka Chaturvedi, along with the Petitioner in BAIL APPLN. 401/2022 and some police officials.

14. Interrogation of the landlords at whose houses the prosecutrix and her children were kept was conducted, and it was found that the prosecutrix had been portrayed as the wife of a friend of Raghu Bansal. Owner of the flat in Shyam Nagar revealed that the prosecutrix had initially given rent in advance, however, when he later requested for the rent, the prosecutrix filed a complaint against him before P.S. Tilak Nagar which was later compromised. It was only after the landlord paid Rs. 40,000/- to the Petitioner in BAIL APPLN. 442/2022 that the prosecutrix vacated the house. A similar situation took place involving the landlady of the flat in Ashok Nagar wherein a complaint was filed at P.S. Hari Nagar and the landlady was forced to pay Rs. 3 lakhs to get the prosecutrix to vacate the said flat. Status report also reveals that the prosecutrix claims that no agreement to sell had been executed between her and the Petitioner in BAIL APPLN. 442/2022. Further, the prosecutrix was allegedly forced to sign some papers by the Petitioner in BAIL APPLN. 442/2022 and other co-accused, Vinay Bhasin and Raghu Bansal. However, it is yet to be discerned whether the papers relate to the property or not.

15. Section 438 Cr.P.C. stipulates that directions can be given by the High Court or the Sessions Court for grant of bail to a person apprehending arrest. Sub-section (1) of 438 Cr.P.C. states that any person who approaches the

Court seeking anticipatory bail must have a “reason to believe” that they may be arrested in a non-bailable offence. However, the ultimate decision to grant anticipatory bail is reliant upon the discretion of the Court. No straitjacket formula can be employed while considering an application for grant of anticipatory bail and the Court must apply its own mind to the question to decide whether a case has been made out for grant of such relief. [See Gurbaksh Singh Sibbia and Ors. v. State of Punjab, (1980) 2 SCC 565].

16. The power to grant anticipatory bail is extraordinary in nature, and therefore, must be exercised only in situations wherein the Court is certain that there is no possibility of the accused evading arrest at a later point of time or fleeing from justice. Additionally, the Court must also be cognizant of the fact as to whether the accused is likely to utilise the shield anticipatory bail to repeat commission of the alleged offences. [See Union of India v. Padam Narain Aggarwal & Ors., (2008) 13 SCC 305].

17. The facts as presented to this Court reveal that the offences that have been alleged in FIR No. 53/2022 are serious in nature and depict that something indeed sinister has been taking place over a prolonged period of time. A *prima facie* reading of the FIR indicates that a prostitution ring had been established by the accused involving the prosecutrix and her minor daughter. Furthermore, the factum of the minor daughter allegedly being sexually exploited by various men is unconscionable and gives way to the possibility of the commission of the offences of child prostitution as well as the illegal trafficking of the prosecutrix and her daughter.

18. In view of the gravity of the alleged offences and since the case involves complaints of rape of a minor, this Court is of the opinion that the instant case requires the custodial interrogation of the Petitioners. Custodial

interrogation is further required to unravel the whereabouts of the co-accused as well as their role as the Status Report states that the Petitioners have been hesitant in divulging the relevant information regarding the co-accused who are allegedly absconding. In light of this, this Court does not deem it fit to grant anticipatory bail to the Petitioners herein at this juncture.

19. However, this Court finds it to be a matter of concern that multiple FIRs and complaints have been filed by the prosecutrix before various police stations. Status report showcases that FIR No. 686/2015 at P.S. Bindappur, FIR No. 699/2015 at P.S. Bindapur, FIR No. 529/2021 at P.S. Moti Nagar, have been filed, with many complaints as well. Keeping in mind the complexities of the matter before this Court, this Court directs that the investigation to be conducted by an Officer of the rank of Deputy Commissioner of Police into the present FIRs as well as all the FIRs and complaints filed by the prosecutrix herein as the material before this Court indicates that possibility of the complicity of the prosecutrix in the matter before this Court with others, including the petitioners herein. Status report on the same is directed to be filed within a period of one month from the date of this Order.

20. With the above observations, the petitions are dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J.

MARCH 15, 2022

S. Zakir..