



\$~

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

%

Reserved on: 31.01.2024
Pronounced on: 05.02.2024

+ **BAIL APPLN. 2833/2023**

NITIN KUMAR TOMAR Petitioner
Through: Mr. C.M. Grover, Advocate

versus

THE STATE GOVT OF NCT OF DELHI Respondent
Through: Mr. Satish Kumar, APP for the
State with ASI Deval, P.S.:
Karawal Nagar.
Mr. R.N. Dubey & Mr. Tarun
Garg, Advocates.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant application under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of anticipatory bail in case FIR bearing no. 232/2023, registered at Police Station Karawal Nagar, Delhi for the offences punishable under Sections 498A/406/506/34 of the Indian Penal Code, 1860 ('IPC').

2. Briefly stated, the facts of the present case are that the applicant herein was the husband of the complainant. The



complainant and the applicant had been married on 15.07.2021. It is the case of the complainant that her family had spent more than their capacity for the purpose of marriage and had given a lot of gifts. A total amount of about Rs. 60-70 lakhs had been spent on the wedding. However, the accused husband had started misbehaving with her since the very first night of the marriage. It was alleged by the complainant that on the night of her marriage, her husband had come drunk and told the complainant that he could do whatever he wanted to do with her to satisfy his physical hunger. Even after refusal, the accused had forcibly had anal sexual intercourse with the complainant and had also beaten her. The complainant had also suffered certain internal gynecological problems, but the accused had continued to ill-treat her. On 21.07.2021, when the complainant had gone back to her parental home, her husband and father-in-law had also accompanied her. Her father-in-law had insulted her parents and had taunted them for not giving enough dowry. Due to fear of loss of respect in society, her father had prayed with folded hands that they should not speak rudely to them. However, her father-in-law had pushed her father and had brought her back to the matrimonial home. Thereafter, the accused persons had started scolding and taunting her for not bringing good things as dowry. They had also told her that girls should be kept like shoes on the feet and that she would be asked to give her entire salary to him and that now she belonged entirely to her in-laws. After a few days of marriage, when she had asked her husband as to why he did not go to do any work, he informed her that he was not employed. However, at the time of



marriage, her family members were informed that he had a government job and was working as a jail warder in Uttar Pradesh. When she had confronted the accused persons about the same, she was abused by all of them. They had also told her that they had brought a cow to milch for their son, therefore, why should their son work, and her salary would fulfill all their needs. The accused persons also used to taunt her about her appearance. The present accused/applicant also used to misbehave with her and used to forcibly make physical relations with her. When she resisted the same, he used to slap her. Due to his forced sexual activities, she had started having physical complications, and when she had asked the applicant to take her to the doctor, he had abused her and had told her that her father had not given her enough so that she could be taken to the doctor. Therefore, she had to request her family members for medical help, and they had taken her to Jyoti Nursing Home, Delhi where she was treated by the concerned doctor. The doctor had called the applicant on 01.08.2021; however, he had misbehaved with the doctor and had also refused to buy medicines for her. On 07.08.2021, her health had deteriorated, and her family had to take her to the Narendra Mohan Hospital, Ghaziabad, Uttar Pradesh. Her parents-in-law again had taken responsibility that the applicant would not misbehave with her and took her back on 29.08.2021, in the presence of her family and the middleman. When the complainant was again sent to her in-laws' house, she had touched her father-in-law's feet, but her father-in-law had touched the complainant inappropriately and had put his hands on her chest. After which, when the



complainant had informed her husband about the same, he had abused her. On 30.08.2021, her husband had accompanied her to Rampur, for the first time. The applicant/accused had started demanding her entire salary and had forced her to disclose her ATM PIN and had taken Rs. 30,000/- in cash from her. He used to physically abuse her every day and had burnt her hand due to which her health had deteriorated. He had started demanding Rs. 50,00,000/- from her. Resultantly, she had become mentally disturbed. She was not able to concentrate on her work as she was working as a teacher. On 14.10.2021, when she had come back to her matrimonial home during the *Dussehra* holidays from Rampur, Uttar Pradesh, the father of the applicant asked her to get money from her father and also her share from the property of her father as well as Rs. 50 lakhs in cash. She had also come to know that the applicant was having an extramarital affair with many women. He used to make pornographic movies, and when she had asked him about his extra marital affairs, he had threatened to defame her. He had also told her that he could earn a lot of money by making her inappropriate video and had told her that he had taken some objectionable photos of her, which would be returned only if she would give Rs. 50 lakhs or otherwise post them on social media. He had told her that she was a golden hen for him. She had come to know that the applicant ran a sex racket, and she had heard phone recordings on the phone of the applicant. On 14.10.2021, the applicant had consumed alcohol with his father, uncle, and friends who had advised the applicant to make an inappropriate sexual video of hers. On the same night at about



12:30, he had insisted on making such a video and showing it to the co-accused, her father-in-law. When she had refused, he had switched on the mobile camera, had forcibly assaulted her, and had threatened to kill her. She was mentally disturbed to a great extent. When she had received a call from her mother on 27.01.2022 and conveyed to her mother what was happening to her, her parents had confronted the accused persons and the applicant about their misbehaviour with her and mentally and physically torturing her. The applicant had kicked her father with the stick on his head with the intention of killing him. They had also misbehaved with her mother while leaving her parental home. They had also threatened that if she failed to bring Rs. 50 lakhs, they would kill her. Thereafter, the complainant had filed the present FIR.

3. Learned counsel for the applicant argues that the complainant has stayed in her matrimonial home for a very short duration with the accused and, therefore, he has been falsely implicated in the present case. It is also argued that it is the complainant who does not want to stay with the accused and therefore, she has concocted a false story in this case. It is also argued that the complainant has filed several cases against the present accused/applicant only for the purpose of harassing him. It is further argued that they had never demanded any money from the complainant or her parents and, therefore, he be granted anticipatory bail.

4. Learned APP for the State while opposing the present anticipatory bail application argues that there are serious allegations against the present applicant/accused. It is argued that there are



specific allegations that the complainant was tortured by the accused/applicant and his family members for not having met their demands of dowry, and the applicant/husband used to beat her, and also used to burn her hands. It is further argued that the accused/applicant had made some objectionable videos of the applicant. Thus, the anticipatory bail application of the present applicant/accused be dismissed.

5. This Court has heard arguments addressed by learned counsel for the applicant as well as learned APP for the State and has perused the material available on record.

6. At the outset, this Court notes that the factors to be taken into account while considering grant of anticipatory bail, have been explained by Hon'ble Apex Court in case of *Sumitha Pradeep v. Arun Kumar CK 2022 SCC Online SC 1529*, which are (i) *prima facie* case against accused, (ii) nature of offence, and (iii) severity of the punishment, and it was also held that even if custodial interrogation is not required or necessitated, the same by itself cannot be a ground to grant anticipatory bail. The relevant portion of the judgment reads as under:

"...In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the



prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail..."

7. While deciding cases as the one in hand, the Courts cannot close their eyes to the hard realities of societal situations of individuals. **It is an irony of situation that in several cases, the factum of a woman not working becomes the source of her handicap of raising voice against atrocities for fear of being stigmatized or faced with a dilemma as to where she would go, in case she is thrown out of her matrimonial home, in face of a situation where the doors of her parental home may also not be easily accessible or welcoming to her. However, now there is no dearth of cases placed before this Court highlighting another disturbing trend where the factum of a woman earning and employed becomes her handicap too, on the premise that since being a woman, she is earning and independent, she is not herself inclined to live with the husband and the in-laws, conveniently trying to put under wraps the reason for her to raise her voice against physical, mental, sexual and economic abuse by the husband. The present case presents an argument that the woman being working did not want to live with the husband and the normal wear and tear of matrimonial life has been projected as**



atrocities and cruelties for non-fulfilment of dowry and false implication of the accused/husband and his family.

8. This Court notes after going through the case file and the order of the learned Trial Court, it is evident that the applicant herein has been alleged to have not only physically tortured and abused the complainant, who is his wife, but also sexually abused her in inhumane ways as detailed in the complaint. She has categorically and specifically stated that due to such sexual atrocities committed upon her by the accused/applicant, who repeatedly asserted his entitlement as her husband to do as he pleased with her body, she was coerced into satisfying his physical desires against her will. Even after her refusal, he forcibly engaged in anal sex with her and subjected her to severe beatings, resulting in significant internal injuries, which were disregarded by the applicant who is her husband.

9. Additionally, she has detailed in the complaint that the accused had extra-marital relationships with several women and possessed inappropriate videos and audios suggestive of involvement in a sexual racket and the production of explicit pornographic content for financial gain. The specific allegations include accused/applicant taking inappropriate photographs of the victim, who was his wife, and therefore, an easy prey for taking her inappropriate photographs and making her videos which were sexually explicit taking advantage of their relationship and the mindset that a woman has to give in to any kind of sexual satisfaction of her husband or be labeled as a bad wife. Together with the abovesaid fact, he continuously threatened to publicly shame her, if she did not comply with his demands,



including surrendering her entire salary earned as a teacher. The complainant, due to concerns about her reputation as an educator, could not continue to endure the atrocities inflicted upon her by the applicant and his family members.

10. The allegations are neither vague nor lacking in specificity regarding dates, locations, and the manner in which the incidents occurred, including demands for dowry. Specific incidents of sexual exploitation and abuse are recounted, justified by the accused's belief in his entitlement as her husband. A perusal of record clearly reveals a pattern of abuse and exploitation perpetrated by the applicant against his wife, demonstrating a blatant disregard for her well-being and autonomy. It is shocking that as a married earning woman, even to pay fee to the doctor and to buy medicines, she had to ask the accused/husband who told her that her father had not given enough money to take her to a doctor or to buy medicines for her. The mindset and the behavior is clearly brought out by the allegations that the accused did not even take her to the doctor though she had contracted sexually transmitted disease from him and her family had to take her to the hospital and doctors.

11. This Court also takes note of the order of the learned Trial Court, where the learned Trial Court has mentioned that it had perused the medical treatment record pertaining to the complainant/wife, which showed that she had suffered from sexually transmitted diseases. This Court also notes that the complaint of the wife specifically mentions that due to the sexual atrocities committed upon her, she was repeatedly told that she had to stay in the house as



a prostitute. She had suffered various kinds of health issues related to reproductive organs. Thereafter, she was not taken to the hospital or to a doctor by the applicant, and it was her family members who had repeatedly taken her to the hospitals and to the doctors concerned. In addition to this, to add insult to injury, the accused, when called by the concerned doctor, had insulted the doctor as well as the complainant and had told her that her father had not given enough money so that he would spend it on buying medicines for her. The learned Trial Court was also shown, at the time of the hearing of the bail application, certain videos which showed that the applicant herein had inappropriate videos of sexual relations, which are part of the judicial record before the learned Trial Court. Considering the same, the gravity of the offence committed by the applicant, and also the very fact that the thought process and thinking of the applicant/accused herein, as a husband, he was entitled by virtue of his marriage with the complainant, to sexually, physically, and economically abuse her to the extent as mentioned in the complaint, goes against the very intent of the law of this country.

12. The argument of the learned counsel for the applicant that the accused has been falsely implicated in this present case and that the applicant and the complainant did not stay together for very long duration is of no material consequence at this stage when the allegations are specifically narrated with time, place and the manner of incidents.

13. **The specific incidents of sexual exploitation and abuse recounted in this case unveil a troubling reality—one where**



marriage is distorted into a vessel for unchecked dominance and entitlement. Embedded within this warped perception is a dangerous belief that the marital bond grants unchecked authority to the husband, transforming his wife into a mere object to be wielded at will. The portrayal of the victim as a commodity reflects a deeply entrenched societal mindset that views women as objects to be controlled, exploited, and disposed of at will.

14. Being labeled and continuously called and reminded repeatedly that she had a status of a mere as a cow meant only for milking or a golden hen expected to lay golden eggs is deeply disturbing and indicative of the dehumanizing treatment the victim endured, which highlights the systemic issue of objectification and exploitation of women within certain societal frameworks.

15. The learned Trial Court has also taken note of the supporting documents regarding the medical treatment received by the victim/wife and the fact that the accused had forcibly taken Rs. 30,000/-, and had forced her to give the Pin number of ATM card and the manner in which the salary was taken from her.

16. The severity of the exploitation in this case is compounded by the additional factors of physical and emotional violence inflicted upon the victim by her husband and his family. The use of force, coercion, and intimidation to extract compliance from the victim underscores the systemic nature of the abuse and the lengths to which perpetrators will go to maintain their power and control.



17. This Court is of the opinion that such accused persons should be dealt with a stern hand. The accused is seeking anticipatory bail whereas his custodial interrogation may be required for the purpose of recovering any inappropriate photographs, conversations, audios or videos as alleged by the victim wife.

18. Considering the same, this Court does not find any ground to grant anticipatory bail to the applicant/accused herein.

19. Accordingly, the present application for grant of anticipatory bail stands dismissed.

20. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 05, 2024/zp