

Bail Application No. 348/22

**FIR No. 56/2022; PS Bawana
U/s. 376/494 IPC**

05.02.2022

Through Video Conferencing

This is an application for grant of regular bail moved on behalf of applicant/accused

Present : Sh. Harvinder Nar, Ld Addl P.P for the state.
Sh. Prashant Manchanda, Ld. Counsel for the applicant/accused joined the proceedings through V/C.
Complainant Ms. 'S' joined the proceedings through V/C.
Ms. Geeta Verma, Advocate from DCW joined the proceedings through V/C.
IO/WASI Sarla has also joined the proceedings through V/C.

It is submitted by Ld. Counsel for applicant/accused that the applicant/accused is an innocent person and he has been falsely implicated in the present case. It is further submitted that the complainant is the sister-in-law of the applicant whose marriage was solemnized with his brother on 14.12.2006 but after some time the dispute arose between the complainant and the brother of the applicant. It is submitted by Ld. Counsel for the applicant/accused that on 13.10.2007, the complainant filed a complaint with the SHO, PS Bawana wherein there was not even a single word or utterance pertaining to the allegations of rape. It is further stated that on 09.05.2008, the complainant filed an application u/s 12 (1) of Domestic Violence Act in the court of Ld. ACMM against her husband and in-laws and even in that complaint, there was no allegations of rape against the applicant. A compromise took place between the complainant and her in-laws and the allegations which were levelled in the complaint were withdrawn and the differences were reconciled in the presence of respectable members of the society. It is further submitted that the complainant filed a complaint with SHO, PS Bawana wherein she made mere

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allegations of physical abuse at the hands of her in-laws emanating from unstable family affairs. It is stated that in that complaint also, there was not any whisper of any sexual offence and all the allegations were pertaining to domestic acrimony and the dowry demand and the said complaints were also withdrawn on the written assurance of the elders of the family. It is further submitted that on 28.04.2015, the complainant filed a complaint with SHO, PS Bawana regarding unstable cohabitation with her husband and other allegations and the complainant did not make any allegation of rape against the applicant and the allegations were merely restricted to dowry demand and domestic acrimony. It is stated that on 20.07.2015, complainant filed the application u/s 12 and 23 of D. V. Act in the court of Ms. Richa Manchanda, Ld. MM vide complaint bearing no. 155/13 and Ld. MM vide order dated 23.12.2016 directed the husband of the complaint to pay the interim maintenance of Rs.15,000/- p.m. to the complainant and her children and the husband in compliance of the orders is paying the maintenance to the tune of Rs.15,000/- per month. It is stated that talks were carried out for mutual settlement between the parties but the same failed each time on account of exponential demands put forward by the complainant. Subsequently, when the demands were not met, the complainant made another complaint. On 11.01.2022, the complainant got the FIR lodged (present FIR bearing no. 56/22) at Bawana PS levelling allegations of dowry demands and the allegations of rape against the applicant.

It is submitted that after almost a lapse of more than 7 years of separation the complainant has lodged a false and frivolous complaint implicating the entire family with the allegations of rape against the applicant/accused and the allegations are baseless. It is submitted that the applicant/accused is in JC since 17.01.2022, investigation has been completed and applicant/accused is no more required for further investigation and prayer is made for grant of bail.

On the other hand, Ld. Addl. PP for the State opposed the bail application and argued that allegations against the applicant/accused are serious in nature.

I have heard Ld. Counsels for the parties and perused the record carefully.

The complainant has not denied that the above-mentioned complaints as detailed by the applicant in his bail application were not made by her. From the material placed on record, it is clear that matrimonial dispute between the family of the applicant and the complainant is going on from the last 15 years. The complainant has made several complaints against the family members of the applicant/accused from 2006 till 2022 and prior to filing the present complaint dated 11.01.2022, wherein the allegations of rape have been levelled, no allegations of rape were levelled against the present applicant/accused in any of the complaint. The complainant has not mentioned in her complaint the date, time and the place where the alleged rape has been committed. The complainant has failed to satisfy the court as to why she has made the present complaint dated 11.01.2022 after a lapse of so many years. Applicant/accused is in JC since 17.01.2022 and investigation has been completed and he is no more required for further investigation.

Ld. Counsel for the applicant/accused has placed on record Judgment titled as **Rupesh Alias Aniruddh V/s. State (NCT of Delhi), Bail Appln. No. 1971/2021 passed by Hon'ble Ms. Justice Mukta Gupta on 16.07.2021, Ibrahim Khan Vs. The State of Madhya Pradesh on 12.10.2020 and Andher Singh Vs. The State of Madhya Pradesh on 07.01.2016.**

In Rupesh Alias Aniruddh's case, the Hon'ble High Court has dealt with the bail application- while granting anticipatory bail to the petitioner brother-in-law in case of matrimonial dispute in which complainant had filed second FIR after a gap of approximately one year U/s 498A/406/354/376/341 IPC against the petitioner brother-in-law after the first FIR U/s 406/498A/34 IPC being quashed on grounds of interalia complainant joining the matrimonial home held as follows:

“Considering the fact that the complainant was married for 10 years when the first FIR was registered and in the said FIR there were no allegations whatsoever against the

petitioner and even in the present FIR the allegations of the prosecutrix was that the petitioner used to touch her private part and once he tried to force himself upon her, whereas in the statement recorded under Section 164 Cr.P.C. after nearly one year, she stated that the petitioner once committed rape on her, and the fact that the petitioner joined the investigation, no recovery is required to be made from the petitioner, this Court deems it fit to grant anticipatory bail to the petitioner”.

In **Ibrahim Khan Vs. The State of Madhya Pradesh's** case, the Hon'ble High Court has dealt with the bail application- while granting anticipatory bail to the father-in-law in case of matrimonial dispute in which section 376, 506 was evoked held as follows:

“Having considered the rival submissions and taking note of the fact that the incident took place on 21.03.2020 and FIR to this effect has been lodged after around four and a half months and in between compromise entered into between the parties regarding matrimonial dispute on 17.05.2020 and the fact that a case under Section 498A of the IPC was also lodged against the applicant and his family members on 27.07.2020, in the considered opinion of this Court, it is a fit case for grant of anticipatory bail as no purpose would be served to arrest the applicant and his custodial interrogation is not appearing to be necessary. In view of the same, without going into the merits of the case, the present application stands allowed. It is directed that the applicant Ibrahim Khan, in the event of arrest, shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one surety of the like amount to the satisfaction of the Arresting Officer.”

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In **Andher Singh Vs. The State of Madhya Pradesh's** case, the Hon'ble High Court was pleased to grant bail to the applicant based on similar facts and circumstances.

The facts of the above-mentioned cited cases are similar to that of the present case.

Keeping in view all the facts and circumstances of the case, **the applicant/accused** [REDACTED] **is admitted to bail** on furnishing bail bond in sum of Rs.25,000/- with one surety of like amount to the satisfaction of Ld. MM / Link MM / Ld. Duty MM, subject to the following conditions:

- (I). That the applicant / accused will not try to influence the witnesses;*
- (ii). That the applicant / accused will not leave the country without the permission of the court;*
- (iii). That in case of change of address or the mobile number, prior information shall be given to the concerned IO / SHO and will also be furnished in the Trial Court.*
- (iv). That the applicant / accused will regularly appear before the Trial Court and will cooperate and participate in the trial.*

Application stands disposed of accordingly.

RAKESH
KUMAR

Digitally signed
by RAKESH
KUMAR
Date
2022.02.05
15:04:17 +0530

(Rakesh Kumar-III)
Addl. Sessions Judge-02(North)
Rohini Courts / Delhi / 05.02.2022