

IN THE HIGH COURT OF DELHI AT NEW DELHI

Order reserved on: 11.07.2022

Order delivered on: 12.07.2022

+ BAIL APPLN. 1820/2022

ANIL KUMAR TALAN

..... Petitioner

Through: Mr.Mohit Mathur, Sr. Advocate with
Mr.Harsh Gautam, Mr.Vinayak
Chitale, Mr.Devesh Kumar Malan and
Mr.M. Rais Farooqui, Advocates.

versus

STATE (GOVERNMENT NCT OF DELHI)

..... Respondent

Through: Ms.Rajni Gupta, APP for State with
SI Shubham Saini, P.S.: Pandav
Nagar.Mr.Yash Anand and
Mr.Shenoy Das, Advocates for the
complainant.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

ANOOP KUMAR MENDIRATTA, J.

1. This is an application under Section 438 Cr.P.C. for grant of anticipatory bail to the applicant/petitioner in FIR No.0597/2020 under Sections 182/192/195/203/389/420/469/470/471/500/120-B/34 IPC registered at PS: Pandav Nagar, Delhi.

2. In brief, as per the case of the prosecution, aforesaid FIR was registered on the complaint of Ms.Brijesh Devi wife of Dharmender Singh

on 26.12.2020 wherein she alleged that Ms.Komal daughter of Shri Anil Talan (petitioner in the present petition) was married to her elder son Abhishek Kumar on 20.04.2018. Further, Komal Talan was not willing to live with Abhishek Kumar and in order to extort money from them, she hatched a conspiracy in association with her family members including the present petitioner and her friend Tushar Chaturvedi. In order to execute the plan to disappear from the matrimonial home, she gave false information regarding her suicide. In between, the family members of Komal Talan registered a case bearing FIR No.1479/2019 dated 06.07.2019 under Sections 498-A/364 IPC and 3/4 Dowry Prohibition Act at PS: Indirapuram, Ghaziabad, UP against Abhishek Kumar and other family members. Abhishek Kumar was consequently arrested and is presently on bail in the aforesaid case.

On the basis of aforesaid complaint of Ms.Brijesh Devi, the present FIR No.0597/2020 was registered at PS: Pandav Nagar, Delhi.

3. It is further the case of the prosecution that Komal Talan firstly went to Jaipur, Rajasthan by bus and from there she booked a railway ticket. Further, she went to Mumbai by flight and from there, she went to Bangalore by train. She was subsequently recovered by the STF team of Ghaziabad, UP. Further, at the time of booking of train ticket, Komal Talan used her new mobile number 9971480551 and alternate number as 9990191335. In the CAF, subscriber of mobile number 9971480551 is Kamakshi D/o Anil Talan and alternate number 9990191335 is mentioned to be of co-accused Tushar Chaturvedi.

4. During investigation, CDRs were obtained and mobile number

9971480551 of Kamakshi (used by Komal Talan) was found to be in touch with mobile number 9990191335 of co-accused Tushar Chaturvedi. Also, the aforesaid mobile number of Tushar Chaturvedi was found to be in touch with mobile number 9818573035 used by Rajat Talan (brother of Komal Talan) and 9997066979 used by Anil Talan (i.e. present petitioner). It is also the case of the prosecution that during the course of investigation, it was revealed that mobile number 9971480551 used by Komal Talan was purchased by her from Ram Nagar near Ghaziabad on the basis of fake Aadhar Card in the name of Kamakshi, which does not exist as per UIDAI records.

5. Further, during the course of investigation, accused Tushar Chaturvedi was arrested on 17.12.2021, who made a disclosure statement. Also, statement of one Nizamuddin was recorded who stated that mobile number 9997066979 is in his name and the SIM had been handed over to Anil Talan (petitioner).

6. Learned counsel for the petitioner submits that marriage of Komal Talan was solemnized with Abhishek Kumar (son of the complainant) on 20.04.2018 as per Hindu rites and ceremonies and an Audi car along with cash and other articles were given in the marriage. However, the daughter of the petitioner was subjected to cruelty and harassment for demand of dowry and under distress and depression, Komal Talan left the matrimonial home, without knowing the consequences, on 05.07.2019 leaving the car near Hindon river. It is further submitted that since the petitioner's daughter (Komal Talan) did not inform her mother or the petitioner as to leaving the matrimonial home, the complaint was lodged with the police for legal action

and accordingly FIR No.1479/2019 was registered on 06.07.2019 under Sections 498-A/323/364 IPC and Sections 3/4 Dowry Prohibition Act at PS: Indirapuram, Ghaziabad, UP. Further, when the petitioner's daughter came back and made a statement that she left on her own, the offence of kidnapping was deleted from the said FIR No.1479/2019. Further, the matter between the parties was settled on 14.07.2019 whereby a total sum of Rs.68 lacs was to be paid by the groom side to the bride side and the parties also agreed to filing of petition for divorce by mutual consent. It is further contended that after getting the bail in FIR No.1479/2019, on the basis of compromise, a false and frivolous complaint has been filed for registration of FIR. It is also claimed that since the husband of the complainant in the present FIR is a police official, pressure is being made to withdraw FIR No.1479/2019 registered at PS: Indirapuram, Ghaziabad, UP. Further, the petitioner is stated to have joined the investigation and it is submitted that custodial interrogation is not required. It is further contended that phone number allegedly linked to the petitioner neither belongs to him nor was ever used by him. The alleged disclosure statement of co-accused Tushar Chaturvedi, on the basis of which the custodial interrogation of the petitioner is sought, is stated to be inadmissible. Further, reliance is placed upon ***Kamal Kishore v. State Through Delhi Administration, 1997 Cri LJ 2106.***

7. On the other hand, application is vehemently opposed by learned APP for the State and reliance is placed upon the evidence as collected during the course of investigation and referred in the preceding paragraphs. It is further submitted that petitioner is to be interrogated for recovery of suicide note which was left by Komal Talan in Scorpio car parked near Hindon river but

could not be subsequently found during the course of investigation and is crucial to the case of the prosecution. It is further contended that aforesaid suicide note was also corroborated by the petitioner as revealed from the CCTV footage of the news channels India TV, Aaj Tak and News 24. Proceedings under Section 82 Cr.P.C. are stated to have been carried against the petitioner and in the meantime he was granted interim protection by the learned Sessions Court and application for anticipatory bail was finally dismissed on 24.05.2022. It has also been pointed out that no interim protection was granted to Komal Talan vide order dated 31.05.2022 by this Court on her application for anticipatory bail.

8. I have given considered thought to the contentions raised.

At the outset, it may be noticed that Abhishek Kumar S/o the complainant remained in custody on the basis of fabrication of incident of disappearance made by Komal Talan. The interim protection to Komal Talan in the aforesaid facts and circumstances has already been declined by this Court during the pendency of her application for anticipatory bail. So far as the present application is concerned, the petitioner's connivance is supported by the fact that mobile number 9997066979 used by him was provided by Nizamuddin as disclosed during investigation.

At this stage, it cannot be ignored that Komal Talan was in touch with the family members during the aforesaid period and consequently Abhishek Kumar remained in custody. Also, the matter appears to have been highlighted in media on the basis of alleged suicide note, which the prosecution seeks to recover.

A bare perusal of aforesaid factual position reveals that to wreak vengeance for oblique motive, the incident of alleged suicide was fabricated. The same not only led to ignominy, adverse media coverage and misery to the family of complainant but also resulted in undue incarceration of Abhishek Kumar (husband of Komal Talan). The criminal proceedings were initiated as a gross abuse of the process of law. The implication and consequences of such conduct may not have been fully visualized by the petitioner at the aforesaid time but the uncalled for detention of Abhishek Kumar definitely ruined the chances of settlement. The law appears to have been used as a weapon than a shield by fabricating the incident of disappearance and suicide.

I am of the considered view that a serious view needs to be taken of such incidents to ensure that social fabric is not ruined by such fabrication of facts. If false implication by fabricated omnibus allegations against entire family in the course of matrimonial disputes and differences, is allowed, it may lead to further misuse of the process of law and assume serious proportions.

Considering the grave nature of allegations and the fact that criminal proceedings under Section 364 IPC were falsely initiated, in connivance, I do not find the case to be fit for grant of anticipatory bail to the petitioner.

The application is accordingly dismissed.

(ANOOP KUMAR MENDIRATTA)
JUDGE

JULY 12, 2022/SD