

Bail Application No.882/2021
FIR No.56/2021
u/s 376/377/406 IPC
PS:Pahar Ganj
State Vs. Saurabh Miglani

03.06.2021

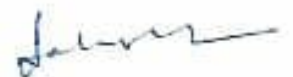
**ORDER ON THE BAIL APPLICATION OF APPLICANT/ACCUSED
SAURABH MIGLANI.**

By this order I shall decide the bail application u/s 439 Cr.P.C. of applicant/accused Saurabh Miglani being filed by Id. Counsel for applicant/accused.

Present: Sh. Ateeq Ahmad, Ld. Addl. PP for the State through V.C.
Sh. Jaideep Malik, Id. Counsel for accused through V.C.
Ms. Lakshmi Raina, Id. Counsel for DCW through V.C.
Complainant/victim through V.C.
I.O. SI Jagat through V.C.

The arguments on the bail application were heard on dated 31.05.2021 and it was fixed for 03.06.2021 for order.

Sh. Jaideep Malik, Id. Counsel for accused has submitted that the accused is in JC since 24.03.2021 and he has been falsely implicated in the present case FIR. The complainant has levelled undated and time barred allegations against the accused as it was friendly relationship between the accused and the complainant and same was break up in May 2020. The complainant is lady of aged about 45 years and having one daughter of aged about 18 years whereas the accused is aged about 25 years and complainant wanted to marry with the accused and she could not succeed and in November 2020 the accused got marriage with another girl and because of the Jealousy.



the complainant made a false complaint against the accused on dated 08.03.2021.

It has also been submitted that perusal of the FIR, it would reveal that relationship if any between the complainant and the accused were consensual and applicant/accused has clear antecedents. The wife of the accused is pregnant and it is the need of the hour that to look after his wife in this pandemic period, the presence of the accused is required. The investigation qua the accused has also been completed and make a request that accused may kindly be released on bail.

Per Contra, Ld. Addl. PP for the State and Ld. Counsel for DCW has vehemently opposed the bail application of the accused/applicant on the ground that the accused has established physical relation with the complainant forcibly and also extort the money by way of misconception and submitted that bail of accused may kindly be dismissed.

Complainant/victim who also appeared through V.C. has submitted that she is a married lady and having a daughter and she came into contact with the accused in the year 2016 through Facebook and thereafter, the accused taken her mobile phone number and start calling the complainant. She has also submitted that in the year 2016 her two male child were died and because of this reason she was under depression and she was suffering very great mental pain and agony. Her husband has also blaming the complainant for the same and in the month of July 2016, she was in chatting and started calling through Facebook and mobile with the accused and accused also introduce his mother, father and brother with the complainant on phone and on this regular chat and conversation, the accused taken her into confidence and the accused become her close friend and she started believing/trusting the accused.

It has also submitted by the complainant that during the

conversation on the mobile phone, accused told her for steps taken for surrogacy and told her to introduce some doctor on phone and after some days in the month of March/April 2017-2018, the complainant was called by the accused at Hotel Haridey DX 3787-3788, Gali Ram Nath Patwa, Pahar Ganj, New Delhi and accused offered soft drink to the complainant and after taken the soft drink the complainant become unconscious and in that condition accused committed rape upon the complainant and also snapped the objectionable photographs and video and thereafter, she also made call several times to the accused and thereafter, she did not receive the phone call of the accused and then on dated 05.08.2019, the accused send some photographs of her with the accused to her husband and those photographs were sent to her husband by whatsapp and her husband started to quarrel with her and thereafter, she leave her husband and started to live with the accused but the accused cheated her, extorted money on some pretext or other and breach her trust and established physical relation with her forcibly and make a submission that the bail application of accused may kindly be dismissed.

Heard. File perused.

Having heard the submissions made by Ld. Counsel for applicant/accused, Complainant/victim, I.O., Ld. Counsel for DCW as well as Ld. APP for the State and after gone through the contents of the bail application and perusal of the charge sheet and reply filed by the I.O. of this bail application and without commenting upon the merits of the case, this court is of the considered view that the present case FIR No.56/2021 u/s 376/377/406 IPC PS Pahar Ganj was registered against the accused on the typed complaint dated 08.03.2021 made by the complainant. I have gone through the averment of the typed complaint as well the statement u/s 164 Cr.P.C. of the complainant/victim and there is material and improved contradictions in the averment of the FIR as well as statement u/s 164 Cr.P.C.



It is worth mentioning that it has been alleged by the complainant against the accused that in March/April 2017-2018, she was called by the accused in the Hotel Haridey, Pahar Ganj and she was asked to consume soft drink by the accused and after consuming the cold drink, she became unconscious and accused established physical relation with her forcibly and at the same time took some her nude photographs.

The complainant is not able to mention in the complaint the specific date or the year of the alleged incident.

It is worth mentioning that another allegations against the accused are that after establishing sexual relation, the accused promise to marry with the complainant and because of this reason she did not make any complaint to the police against the accused in the March/April 2017-2018 when the accused alleged to have been established sexual relation with her forcibly.

The victim/complainant was a married lady in March/April 2017-2018 and was having one daughter and was living with her husband. The complainant/victim is a matured, educated lady who has studied upto MBA and a married lady, aged about 45 years whereas accused was hardly 9th class pass and having no source of income (as told by the complainant/victim during the course of arguments on this bail application).

The accused was admittedly unmarried boy of around 20-22 years in the year 2017-2018 and it is very surprising that how the accused is being able to extort money from the complainant/victim who is lesser in age and in educational qualification than complainant/victim.

As per the allegations the accused has established physical relation with the complainant/victim in March/April 2017-2018 and when she resisted and asked the accused why he has done so then accused promised to marry her. This fact is also very surprising as complainant/victim is a married lady and is having her husband and one daughter and without obtaining the



decree of divorce from her husband how she could have been married with the accused without obtaining the decree of divorce.

It is worth mentioning that on dated 02.08.2019, the complainant/victim did not receive the call of accused and accused send some photographs which were with the complainant/victim to the mobile number of the husband of the victim on dated 05.08.2019 and when those photographs were seen by the husband of complainant/victim, then a quarrel took place between the complainant and her husband and the complainant even did not lodge any complaint against the accused in the month of August, 2019.

It has also been alleged in the complaint that on dated 09.08.2019, the accused made a call on the mobile phone of the daughter of the complainant/victim and threatened her to ask complainant/victim to receive the call of accused and DD No.18A dated 12.08.2019 Police Post Jangpura was got registered and even on the said date complainant/victim did not lodge any complaint against the accused of committing physical relation with her forcibly.

It has also been stated in the complaint made by the complainant/victim that when her husband had seen the photographs of the complainant with the accused, she was thrown out from her matrimonial home by her husband on August 2019 and thereafter, she started to live with the accused in a rented accommodation in Delhi and on dated 02.11.2019, the accused put the vermilion to the forehead of the complainant/victim and put the Mangal Sutra on her neck in a rented accommodation where the complainant used to reside with the accused. This fact is also very surprising as the complainant/victim is a married lady and without obtaining divorce how she can accept the Mangal Sutra of the another person who is accused herein and as per her own averment the accused put the vermilion on the forehead of complainant/victim on dated 02.11.2019 and put the Mangal Sutra in her neck and thereafter, on dated 27.01.2020, the complainant/victim started to live with

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the accused and his family members at Karnal, Haryana and on that date she also did not obtain decree of divorce and she was a married lady and as per her own averment in the complaint made by her to the police, she had filed a petition of decree of divorce by mutual consent from her husband and first motion was recorded on dtd. 05.02.2020.

As per the averment of the complaint some dispute arose between the complainant and family members of the accused at Karnal, Haryana and in March 2020, the complainant started to live with the accused at rented accommodation in Housing Board Colony, Sector-4, Karnal, Haryana and after some time when the complainant/victim was residing with the accused in the said rented accommodation in Sector-4, Karnal again a dispute arose and the complainant made a complaint to the police stated therein that accused Santabh is her husband and who has tortured her many times and give beatings and accused was booked at Police Post Sector-4, Karnal, Haryana u/s 107/151 Cr.P.C. under a Kalandara and thereafter, the complainant/victim returned back from Karnal to Delhi with her brother on 05.05.2020 and even on the said date she did not lodge any complaint against the accused for establishing physical relation with her and of unnatural sex and of criminal breach of trust.

It has also been averred that the complainant came to know on dated 22.11.2020 that accused has solemnized marriage with some other girl and even on the same date, the complainant/victim did not lodge any complaint to the police u/s Section 376/377/406 IPC, the alleged offence and there is unexplained and inordinate delay to lodge the FIR and typed complaint made by the complainant of allegedly establishing physical relation forcibly alleged to have been made by the accused of March 2017-2018 and the typed written complaint made against the accused on dated 08.03.2021 in Police Station Pahar Ganj upon which the present FIR has been registered against the accused.

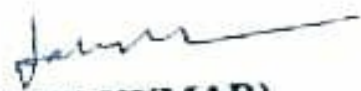
The accused is in JC since 23.03.2021. The investigation qua

the accused has already been completed. The charge sheet has also been filed against the accused in the court of Ld. MM on dated 22.05.2021 and it would take a long time to conclude the trial particularly in this pandemic period and no purpose would be served to keep accused in the JC. Therefore, in these facts and circumstances, applicant/accused be admitted on bail on his furnishing a bail bond/surety bond for a sum of Rs.50,000/- with one surety of the like amount to the satisfaction of Ld. Jail Duty MM, Ld. MM/Ld. Link MM/Ld. Duty MM/Ld. ACMM/Ld. CMM, Central District, Delhi, subject to the following conditions that :

1. Accused/applicant shall not leave the country without permission of court;
2. Accused/applicant shall appear before this court on every date fixed in the case and shall furnish his present correct address;
3. Accused/applicant shall also inform the Investigating Officer about any change in his residential address;
4. Accused/applicant shall not contact to complainant and her family members or any other witnesses directly or indirectly and not interfere with the fair trial of this case;

It is made clear that nothing stated herein above shall any tantamount to an expression on the merits of this case FIR.

Bail application is disposed off accordingly. Copy of this order be sent to Jail Superintendent, Tihar, New Delhi, for necessary compliance.


(SATISH KUMAR)
Vacation Judge/ASJ-2(CENTRAL),
TIS HAZARI COURTS, DELHI.
03.06.2021