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

Date of Decision: 03.02.2025

+ **BAIL APPLN. 142/2025**

NITIN KUMAR

.....Petitioner

Through: Mr. Chirag Madan, Mr. Vipul
Sharma, Mr. Sai Krishna Kumar, Mr.
Rahul Agarwal, Mr. Ronit Bose,
Advs.

versus

STATE GOVT. OF NCT OF DELHI AND ANR.Respondents

Through: Mr. Yudhvir Singh Chauhan, APP
with SI Shajia Hussain, PS Malviya
Nagar
Mr. Himanshu Yadav, Mr. Chirag
Pathor, Mr. N. Ahmed, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J (ORAL)**

1. This is a petition filed under section 483 of BNSS seeking grant of regular bail to the petitioner in FIR No. 508/2024, dated 06.10.2024 registered at PS Malviya Nagar under sections 376/354C/385 of IPC, 1860.
2. In the present case, the petitioner has been in custody since 10.11.2024.
3. Briefly stating the facts are that the respondent no. 2/complainant met the petitioner in the month of April 2022 at a theatre group, where they both used to take acting classes. Over time, they developed a close friendship, which later evolved into a romantic relationship. The petitioner also



promised to marry the complainant. One day, when the petitioner and the complainant were on a video call and the complainant was changing her clothes, the petitioner started taking screenshots of the complainant without her permission. The petitioner then pressurised the complainant to enter into an agreement with the mother of the petitioner to start a marketing company by the name of '*Kirdaar Marketing LLP*' and in case, the complainant refused, the petitioner threatened to leak the complainant's personal photos and videos on the internet. Further, the petitioner also coerced the complainant into investing a sum of Rs 5 lakhs in the said company which is stated to be transferred in the bank account of the mother of the petitioner.

4. Thereafter, on the pretext of company work, the complainant was taken to places all over India and the petitioner used to make physical relations with the complainant without her consent. Further, the complainant also threatened to kill the complainant along with her family.

5. Hence, the present FIR came to be registered.

6. Notice in the present petition was issued to the prosecutrix/complainant and the complainant is being represented through the learned counsel, namely, Mr. Himanshu Yadav, Adv.

7. Mr. Madan, learned counsel for the petitioner primarily submits that a perusal of the arrest memo issued on 10.11.2024 indicates that the petitioner was neither provided with the grounds of arrest or reasons of arrest which is complete violation of Article 22(1) of the Constitution of India. In this regard, reliance is placed upon *Prabir Purkayastha vs. State (NCT of Delhi)* (2024) 8 SCC 254. The operative portion reads as under:

“19. Resultantly, there is no doubt in the mind of the Court that any person arrested for allegation of commission of offences under the



provisions of UAPA or for that matter any other offence(s) has a fundamental and a statutory right to be informed about the grounds of arrest in writing and a copy of such written grounds of arrest have to be furnished to the arrested person as a matter of course and without exception at the earliest. The purpose of informing to the arrested person the grounds of arrest is salutary and sacrosanct inasmuch as, this information would be the only effective means for the arrested person to consult his Advocate; oppose the police custody remand and to seek bail. Any other interpretation would tantamount to diluting the sanctity of the fundamental right guaranteed under Article 22(1) of the Constitution of India.

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46. Now, coming to the aspect as to whether the grounds of arrest were actually conveyed to the appellant in writing before he was remanded to the custody of the Investigating Officer.

47. We have carefully perused the arrest memo(Annexure P-7) and find that the same nowhere conveys the grounds on which the accused was being arrested. The arrest memo is simply a proforma indicating the formal 'reasons' for which the accused was being arrested.

48. It may be reiterated at the cost of repetition that there is a significant difference in the phrase 'reasons for arrest' and 'grounds of arrest'. The 'reasons for arrest' as indicated in the arrest memo are purely formal parameters, viz., to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of



the offence to disappear or tempering with such evidence in any manner; to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Investigating Officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the 'grounds of arrest' would be required to contain all such details in hand of the Investigating Officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the grounds of arrest' would invariably be personal to the accused and cannot be equated with the 'reasons of arrest' which are general in nature.

49. From the detailed analysis made above, there is no hesitation in the mind of the Court to reach to a conclusion that the copy of the remand application in the purported exercise of communication of the grounds of arrest in writing was not provided to the accused appellant or his counsel before passing of the order of remand dated 4th October, 2023 which vitiates the arrest and subsequent remand of the appellant.

50. As a result, the appellant is entitled to a direction for release from custody by applying the ratio of the judgment rendered by this Court in the case of Pankaj Bansal (supra).”

8. He states that the relationship between the complainant and the



petitioner was consensual and the petitioner has never made any promise to marry the complainant. Further, the chargesheet is also silent on the said aspect that whether the allegations levelled against the petitioner were committed on the pretext of marriage.

9. He further states that the petitioner has clean antecedents and no other criminal case is pending against him.

10. *Per Contra*, Mr. Yadav, learned counsel for the complainant states that the petitioner is accused of committing rape on the complainant on the pretext of marriage. Further the petitioner has also threatened and blackmailed the complainant and her family. The allegations against the petitioner are serious in nature and hence, the petitioner is not entitled to bail.

11. He further states that the petitioner had filed similar applications, however the same have been rejected earlier by the learned Trial court. In this regard, learned counsel has handed over a copy of order dated 18.11.2024, whereby the first bail application filed by the petitioner was rejected by the learned Trial court on the ground that the allegations against the petitioner are grave in nature.

12. He also relies upon the judgment passed by this court in ***Sahil Sachdeva vs. State (NCT) of Delhi*** BAIL APPLN. 1936/2022 and more particularly paras 14 to 17 which read as under:

“14. As per the status report, the profile of the applicant at ‘Betterhalf.ai’ shows his income from Rs. 30 - 50 lakhs in his profile which seemingly is to attract more girls. It seems that the applicant used to extract money from the girls whether on account of blackmailing or on account of losing his wallet, but the fact



remains that he would befriend them on the matrimonial website and promise them marriage.

15. The fact that the charge sheet has been filed and/ or that the mobile phone has been recovered, is of no help to the applicant as the prosecution evidence is yet to commence.

16. As per the status report, the apprehension of the applicant influencing or blackmailing the other two victim girls, if released on bail, remain at large. I am of the opinion that this apprehension cannot be ruled out.

17. For the aforesaid reasons, I am not inclined to enlarge the applicant on bail. Hence, the application is dismissed.”

13. I have heard learned counsel for the parties.

14. In the present case, my attention has been drawn to the arrest memo dated 10.11.2024 and more particularly column no. 10 which reads as under:

10. <i>Reasons/Grounds of arrest</i>	✓
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15. In this regard, Mr. Chahar, learned APP states that the grounds of arrest were communicated orally.

16. A perusal of column no. 10 of the arrest memo dated 10.11.2024 shows that no grounds of arrest or reasons of arrest were not given to the petitioner in writing and the same is squarely covered by the judgment of the Hon’ble Supreme Court in ***Prabir Purkayastha*** (supra), wherein the appellant in that matter, was granted bail on the ground that the grounds of arrest was not provided to the appellant or his counsel in writing.

17. Further, to my mind, the issue whether the physical relationship was



consensual or established under the pretext of marriage is a matter to be decided during the trial. Similarly, the question of whether the sum of ₹5 lakhs was given due to blackmailing of the petitioner or as part of a partnership arrangement between the petitioner's mother and the complainant will also be adjudicated during trial.

18. In addition, the order dated 18.11.2024, whereby the first bail application of the petitioner was rejected, does not give any reason for denial of bail except the fact that the offence committed by the petitioner is grave and heinous in nature. I am of the view that the parties were adults at the time of the alleged incident and were capable of understanding their actions. The petitioner has already been in custody since 10.11.2024 and the chargesheet has also been filed.

19. Though the allegations against the petitioner are serious and grave in nature and the petitioner is accused of committing rape on the complainant on the pretext of marriage, and also threatening the complainant and her family, however the fact remains that the petitioner is still and under trial prisoner. The charges against the petitioner are yet to be proved and the trial is unlikely to conclude in the near future. Till the trial is concluded, the petitioner is presumed to be innocent.

20. The rights under Article 21 of the Constitution of India are paramount and every accused is entitled to a speedy trial.

21. The apprehensions of the complainant regarding threatening or blackmailing can be addressed by imposing adequate restrictions.

22. For the said reasons, the petition is allowed and the petitioner is directed to be released on regular bail subject to the following terms and conditions:



- i. The petitioner shall furnish a personal bond in the sum of Rs 10,000 (Rupees ten thousand only) each with 1 surety in the like amount, to the satisfaction of the concerned trial court;
 - ii. The petitioner shall provide his mobile number to the concerned Investigating Officer (IO), which shall be kept in working condition and switched on at all times. The petitioner shall also provide his permanent residential address and in case of change of residential address or contact details, the petitioner shall promptly inform the same to the concerned IO as well as to the concerned Court;
 - iii. The petitioner shall not leave the country without permission of the competent Court during the bail period and surrender his passport, if any, at the time of release before the concerned Court;
 - iv. The petitioner shall not directly/indirectly try to get in touch with any prosecution witnesses or tamper with the evidence.
 - v. The petitioner shall not indulge in any act or omission that is unlawful or that would prejudice the proceedings in pending cases, if any.
 - vi. The petitioner shall not communicate with, or come into contact with the complainant or any of her family member.
23. The petition is disposed of accordingly.
24. The observations made in the order are only for the purpose of deciding the bail application.
25. A copy of this order shall be communicated electronically to the concerned Jail Superintendent for information and necessary compliance.



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JASMEET SINGH, J

FEBRUARY 3, 2025/DM

Click here to check corrigendum, if any