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

% *Date of decision: 25th July, 2025*

+ **BAIL APPLN. 1587/2025, CRL.M.A. 12535/2025**

GAGAN MALHOTRAPetitioner

Through: Ms. Dolly Sharma, Advocate.

versus

STATE GOVT OF NCT OF DELHIRespondent

Through: Mr. Shoaib Haider, APP for the State
with Insp. Manoj Kumar and SI Amit
Rathee P.S. Paschim Vihar.

Mr. Lokesh Nath Jha, Mr. Kashish,
Ms. Aditi, Mr. Hunny, Advocates
along with Complainant in person.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. First Bail Application under Section 483 of the Bhartiya Nagrik Suraksha Sanhita (BNSS), 2023 [corresponding to Section 439 of the Code of Criminal Procedure, 1973 (Cr.P.C)] has been filed by the Applicant/Gagan Malhotra seeking **regular Bail** in *FIR No.683/2024*, under Sections 376/323/354/506/509/341 of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*) and Section 67 of the Information Technology Act, 2000 (*hereinafter referred to as "IT Act"*), registered at Police Station Paschim Vihar East, New Delhi.

2. It is submitted that the Applicant has clean past antecedents and has been falsely implicated in this case at the behest of Prosecutrix, who has concocted a false and misleading story by concealing material facts.



3. The Applicant is seeking regular Bail on the **grounds** that the present FIR is counter-blast filed with a motive to take revenge from the Applicant, who has lodged that FIR No.240/2024 under Sections 117(2)/351(2)/3(5)/61(2) of Bharatiya Nyaya Sanhita (BNS), 2023 (*corresponding to 325, 506, 34, 120B IPC*) against the Prosecutrix and her husband.
4. No Notice under Section 41A Cr.P.C. was served upon the Applicant and he was directly arrested from his house in Punjab. Investigations are complete, Chargesheet has also been filed and custody of the Applicant is no longer required.
5. It is further submitted that the Applicant was a close relative of the Prosecutrix's husband and was helping him in his business and also in paying back his loan amount. The Applicant was financially helping the family of the prosecutrix by taking care of her children's school fee, house rent and other personal expenses as the Prosecutrix's husband was not financially sound.
6. The Prosecutrix used to voluntarily send obscene images and videos to the Applicant. There is nothing to show from these alleged photos that the Prosecutrix was under any threat or fear; rather the photos only reflect that act of the Prosecutrix is voluntarily with her own free will and free consent. The analysis of the alleged photos and videos show them to be consensual.
7. Furthermore, the Prosecutrix used to discuss with the Applicant about their future relationship and also about buying a house with the Applicant, thereby indicating that the relationship was consensual, as per the case of the prosecution.



8. There is no medical or other evidence to support the alleged allegations of rape having been committed by the Applicant. There was an inordinate delay of about 02 years in lodging the present FIR as the alleged incident is dated 01.01.2023, whereas the FIR has been registered on 01.12.2024. There is no explanation given for such inordinate delay in lodging the complaint, which shows that it is an afterthought and is *mala fide*.

9. The Discharge Summary of the Prosecutrix shows that on 25.11.2023, she had fallen from stairs at home, because of which she had suffered injuries and was hospitalized for 05 days. There is no police complaint as to the alleged injury, which falsifies the Prosecution version that she was beaten by the Applicant resulting injuries to her body.

10. The Prosecutrix has further made absurd allegations that she was confined for 20 days by the Applicant. If so was the case, why did her husband not take any action against the Applicant.

11. The Prosecutrix has financially exploited the Applicant and has dishonestly induced him to pay over Rs.14 lakhs for her family and other expenses and also for renovation of the house of Applicant on the pretext she has good knowledge about interiors and will make arrangements for the material, but the Prosecutrix neither provided the material nor returned the money to the Applicant.

12. As per the Prosecution, the Applicant transferred Rs.14,26,436/- into her account. When the Applicant demanded return of the money from the Prosecutrix, he was severely beaten and manhandled on 02.08.2024. He sustained multiple injuries including a fractured leg and jaw and was



hospitalized. He consequently, got an FIR No.240/52024 dated 21.10.2024 registered at Police Station Jamalpur, under Sections 117(2)/351(2)/3(5)/61(2) of BNS, against the Prosecutrix.

13. It is further submitted that as per the Prosecution, the daughter of the Prosecutrix did not disclose anything pertaining to sexual offence on her by the Applicant, which falsifies the story of the Prosecutrix that he used to touch her daughter inappropriately and used to show her obscene videos. This shows that the Prosecutrix can go to any extent to even involve her minor daughter in order to drag the Applicant into false cases.

14. The Prosecutrix has not only mentally, emotionally and financially ruined the Applicant's life but also sabotaged his marriage by sharing edited content with his wife, thereby causing severe mental trauma and eventual breakdown of his marriage. Now, by way of the present FIR the Prosecutrix is trying to ruin Applicant's complete life and his image and reputation among his friends, relatives and society.

15. The Police has failed to obtain the CCTV footage of all alleged places in order to corroborate the version of the Prosecution version. Public witnesses have not been joined at the time of alleged arrest of the Applicant, nor any Notice was issued to the public, which creates doubt about the fairness of investigation and shows that the Applicant has been falsely implicated.

16. The Regular Bail Application filed before the learned ASJ has been dismissed *vide* Order dated 03.04.2025, *therefore, the Prayer has been made that the Applicant be granted bail.*

17. *Status Report on behalf of the State has been filed in the Court*



today, which is taken on record.

18. The Status Report details the entire investigation carried out in the present case. It has been explained that the mobile phones of the Applicant as well as the Prosecutrix, have been seized. A private photograph has been uploaded by the Applicant on the Facebook, which was recovered from the gallery of his phone. The WhatsApp analysis reveals offensive messages exchanged between the Applicant and the Prosecutrix. Some chats show discussion of the relationship and purchase of house. The Applicant's phone contains obscene photographs and videos of himself and the Prosecutrix.

19. Furthermore, Notices were served to the Equitas Bank and Central Bank of India, Paschim Vihar and it has been confirmed that Rs.14,26,436/- were transferred to the account of the Prosecutrix and her husband, from the bank account of the Applicant. Additionally, Rs.36,270/- were transferred by the Prosecutrix to the account of the Applicant.

20. The statement of the daughter of the Prosecutrix has also been recorded under Section 180 BNSS (*corresponding to Section 161 Cr.P.C*), wherein she had stated that the Applicant had stayed in their house for about 04 years and he had verbally abused her mother by using derogatory terms. He sent her inappropriate messages of photos of girls and asked vulgar questions. He threatened to defame the family by using the photos of the Prosecutrix posted on Facebook.

21. After completion of the investigation, the Chargesheet has been filed in the Court under Sections 376/323/354(C)/506/509/341 IPC and Section 67 IT Act.

22. The case is at *the stage of Charge* before the learned Trial Court.



23. *Bail is opposed on the ground that the allegations are serious in nature and there are apprehensions that the Applicant may influence the witnesses during the trial.*

Submissions heard and record perused.

24. As per the Complaint on which FIR was registered, the Applicant had been staying in the house of the Prosecutrix and used to visit the house to assist her husband in business and also help in clearing the bank loans difficulties, which were being faced by her husband. Initially, the Applicant assisted the Prosecutrix in household chores and also helped her children with their studies.

25. In 2022, the Applicant got married and moved to Punjab with his wife. Even thereafter, he used to maintain daily contact with the Prosecutrix and frequently discuss his marital issues and seek advice for improving his relationship with his wife. However, because of matrimonial differences, his wife left him within three months of marriage.

26. Initially, when the Applicant came back from Punjab, his behavior was polite to her and her family and he helped them in daily activities while staying with them. He repeatedly assured that he considered the Prosecutrix as his sister-in-law and her daughter as his own daughter, and assured that he did not have any malicious intentions. However, he stated secretly taking obscene photos of the Prosecutrix while she was in the washroom, without her knowledge, to sexually exploit her. The Applicant also entered her room without permission, when she was alone at home. He even misbehaved and attempted to touch the Prosecutrix inappropriately and threatened to expose her photographs. He also blackmailed her with obscene images. He engaged



in inappropriate conversation with various girls and women on social media and networking sites through fake accounts.

27. In January, 2023, when the Prosecutrix was alone at home, he silently entered the room and grabbed and kissed her forcefully without her consent. Thereafter, removed her cloths and tried to physically assault her and even established physical relationship. He continued to exploit her on the pretext of obscene photos and also use derogatory language. He even manipulated the son of the Prosecutrix against her and her husband by telling him that his father was incapable of doing anything. When the Prosecutrix refused to leave her husband, he started blackmailing her by sending her obscene photos and started demanding money under the threat of posting obscene content on social media. He did not stop texting her on WhatsApp and when she blocked him on WhatsApp, he started texting her on PhonePe, Google Pay and continued to demand money in lieu of obscene pictures. He also threatened to destroy her entire family. Eventually, she got the FIR registered on 01.12.2024.

28. From the allegations made in the Complaint, apparently, the Applicant was known to the Prosecutrix and her family, because he had stayed in their house. Though the allegations have been made that obscene photos and videos were prepared, but as has been noted there was nothing to *prima facie* show that they had been made involuntarily.

29. Without commenting on the merits of the case, it may be observed that the Chargesheet has already been filed and custody of the Applicant is no longer required.

30. Looking at the totality of circumstances, it is evident that there is



neither any likelihood of the Applicant fleeing from justice or of influencing the witnesses. Considering the totality Applicant is granted Bail on the following terms and conditions:

- a) The Applicant/Accused shall furnish a personal bond of Rs.35,000/- each and one surety of the like amount each, subject to the satisfaction of the learned Trial Court.
- b) The Applicant/Accused shall appear before the Court as and when the matter is taken up for hearing;
- c) The Applicant/Accused shall provide their mobile number/changed mobile number to the IO concerned which shall be kept in working condition at all times;
- d) The Applicant/Accused shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.
- e) In case the Applicant/Accused change their residential addresses, the same shall be intimated to learned Trial Court and to the concerned I.O.

31. The copy be sent to the learned Trial Court and Jail Superintendent for information and compliance.

32. The Bail Application along with pending Application(s), if any, is disposed of accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

JULY 25, 2025/R