

B.A.No. 433/21, 540/21, 541/21, 542/21, 544/21, 545/21, 546/21,
547/21 & 548/21
FIR No. 18/21
PS Pahar Ganj
State v. Azam Ali,
Nazma @ Najjo,
Firdaus @ Bhuri,
Ahmad Ali, Bundo,
Danish,
Shamsher Khan,
Shabana,
Zeba

08.06.2021

Present: Sh. K.P. Singh, Ld Addl. PP for State through videoconferencing.

Sh. Prabhat Kumar, Counsel for accused-applicants through videoconferencing.

Sh. Sagheer Ahmed, counsel for complainant through video conferencing.

IO WSI Sheela through video conferencing.

Hearing is conducted through videoconferencing.

These are nine applications u/s 438Cr.P.C for grant of anticipatory bail on behalf of accused-applicants **Azam Ali, Nazma @ Najjo, Firdaus @ Bhuri, Ahmad Ali, Bundo, Danish, Shamsher Khan, Shabana and Zebain** case FIR No.18/21.

Reply is filed. Copy forwarded to Ld. counsel for accused-applicants.

Arguments heard. For orders, put up at 4 pm.



(NeeloferAbidaPerveen)
Special Judge: NDPS

At 4 pm
ORDER

These are nine applications u/s 438 Cr.P.C for grant of anticipatory bail on behalf of accused-applicants **Azam Ali, Nazma @ Najjo, Firdaus @ Bhuri, Ahmad Ali, Bundo, Danish, Shamsheer Khan, Shabana and Zebain** case FIR No.18/21.

Ld. Counsel for accused-applicants submits that the applicant/accused Farman has now been granted regular bail and that the order is annexed. That accused-applicants have joined the investigation of the case with the IO on the directions of the Court. That the alleged complaints of threats have been filed to be false. That IO has not sought custodial interrogation of the accused-applicants who are related to the husband of the complainant, now out on regular bail.

Ld. counsel for the complainant has brought to the notice of the Court that chargesheet has now been filed and that the chargesheet may be called to assess if the case requires custodial interrogation as the applicant Azam Ali is not the husband and that the offences are grave and heinous.

IO submitted that chargesheet was filed on 25.03.2021.

Ld. Addl. PP submits that there is no requirement of custodial interrogation of the accused-applicants. That in terms of previous order, accused-applicants have joined investigation and that IO does not require custodial interrogation of the accused-applicant. That main accused Farman has already been granted regular bail. That the

complaints have been enquired into and have not been substantiated. That chargesheet is already filed.

Heard.

The FIR is registered on the complaint of the prosecutrix alleging that in September 2016, she met accused Farman who wished to make friends with her but she had declined and on 4.3.2018 he pleaded with her to attend his birthday party promising her that thereafter he will never follow her in his whole life, and had threatened her that he will commit suicide by hanging himself at which she had agreed though reluctantly. He told her that he will pick her up from Tis Hazari and when she reached Tis Hazari, Farman was already standing there with his vehicle alone and when she asked about the others who will be joining the party, he replied that they are standing at ISBT and they will accompany them from there itself to restaurant and she believed upon him and sat in Swift Dezire car, where he offered a cold drink which was already lying in the car and she consumed the said cold drink and thereafter she felt giddiness and she asked him to stop the car but he did not stop the car and she lost her senses after consuming Maza cold drink given by him and thereafter she does not know where she was taken by him. That when she regained her consciousness, she found herself lying on some folding bed in a room and Farman and his friend Danish were sitting near the folding bed in naked condition and both were having mobiles in their hands and she also found herself naked and on seeing this, she got scared. That when she tried to get up, she felt pain in her private parts with bleeding. Farman and his friend started wearing their cloths and after wearing cloths Farman helped the complainant to put on her cloths and threatened herto remain silent.

Danish said that he has made her obscene video and photo and Danish had also shown that video to her in which they both were seen committing indecent act with her and also making physical relations with her and they both threatened her that if she raises her voice or discloses this to anyone, they will make it viral. That the complainant got scared and started crying and Farman and his friend Danish asked her to go out from there and that she should come again as and when they called her otherwise they will get her video and photo viral and she and her family would not be able to show their face to anyone. That thereafter they both ousted her from the room and she saw that motor mechanic shops were outside and when she walked at some distance, she found a highway road and she raised hand, stopped an auto rickshaw and asked him to drop her at the nearby metro station and Auto rickshaw driver took her at Badhkal Faridabad metro station and from there, she came back to her house and she due to shyness, did not disclose this to her sister, brothers and mother. That after this incident, Farman used to threaten her and one day he stopped her on the way and told her to come at Faridabad Metro station on 14.3.2018 at 11 am and that he will wait for her outside the metro station and that if she will not come, he will make her video and photo viral, upon which she went on the aforesaid date and time at Faridabad metro station and Farman was found there outside the metro station and from there, he took her in an auto to Ashirwad Hotel, Faridabad where one person aged 40 years was already sitting in the room of hotel and Farman told her that her obscene video and photo is also with said person and if she makes him happy, then her all video and photo will be deleted and thereafter Farman went to washroom and the said person despite

refusal of complainant, made physical relations with her forcibly and when she asked to delete her video and photo, then they both started laughing. That meanwhile the mobile phone of said person rang and he was talking with someone and introduced himself as Azam Advocate and was saying that he is reaching the chamber at Faridabad court and thereafter said person immediately went from there. That after his leaving, Farman also made physical relations with her forcibly. That she asked him to delete her video and photo but he did not delete the same and thereafter Farman used to call her by making phone calls at different places and made physical and mental torture and committed rape upon her. That then when lockdown was declared she did not receive phone call, but after unlock of lockdown, Farman again started making phone call and started threatening her but she did not take his threats seriously. That on 28.9.2020, Farman made several phone calls to her and when she picked up his phone call, he asked her where she was, she replied that she is at her home, then at around 12.30-1.00 pm, he forcibly entered into her house and after pushing her, he closed the door from inside and at that time, she was alone at home as her mother had gone to market and her phone was also at home and Farman started using force upon her and when she protested, then Farman snatched her mobile from her and said that her obscene video and photo are still lying with him and he after giving threats to make viral her video and photo, again committed rape upon her and thereafter Farman after taking her mobile, went to wash room and immediately thereafter she took out the mobile phone of her mother from charging and made two calls at no.100 at 1.49 pm and 1.52 pm from the mobile no.9540129052 on 28.9.2020 upon which police

reached there and took Farman and the complainant to P.S. Paharganj where she narrated the whole incident to police and thereafter Farman had talks with the police officials and his uncle Azam Advocate, who had made physical relations with her at Ashirwad Hotel at Faridabad on 14.3.2018 and when Farman found that the complainant is adamant to lodge complaint, then he changed his colour and he said that he will perform Nikah with her today itself and he will keep her as his wife and thereafter Police officials also made her understand and made her talk with Farman and Farman assured her that he will not repeat such act in future and will delete her Video and photo and will give all respect to her and after the marriage, he will take her to his village Siyana, and after inducing and threatening her mother, called a Qazi and got performed the Nikah in the presence of 3-4 advocates and police officials. That on the next day of Nikah, Farman took her to his village Siyana where he kept her for 2-3 days and thereafter left her at her mother's house on a false pretext. That the complainant thereafter made several phone calls to Farman and tried to talk to him but whenever he picked her phone, he abused her and one day he picked up her phone call and pronounced talaq and said that he has given talaq to her. That from 23.10.2020, Farman stopped receiving her phone call nor he made any phone call to her and she tried to trace him but he was not found by her and due to the aforesaid circumstances, on 14.11.2020 at about 5-6.00 pm, she went to Siyana UP at her matrimonial home and after entering into the matrimonial home, her three sisters in law 1. Shabana, 2. Firdaus @ Bhuri and 3. Zeba caught her and took her to a room, where they all three assaulted her, Shabana pulled her hair, Bhuri strangulated her neck and

Zeba pulled her chest and they all abused her and threatening to kill her and thereafter, they snatched her purse containing Rs.9-10 thousand, mobile, gold chain, gold earring, and after snatching her articles, they locked her in a room and after half an hour, father in law Ahmad Ali, mother in law Nazma@ Najjo, mausiof Farman namely Bundo and her husband Shamsheer came to the room and started beating her and father in law said that today they will teach her what is rape and thereafter Shamsheer caught her and father in law Ahmad Ali and mother in law Najjo and Shamsheer and his wife Bundo took out payjama of complainant forcibly and mother in law took out a Pepsi bottle lying there and handed it over to father in law Ahmed Ali and asked him to insert and Bundo tied her mouth and Nazma caught her hand and Shamsheer put his one leg on her one foot and got opened her other leg and father in law Ahmed Ali after putting his hand in her private part inserted the bottle inside her private part due to which she got pain and Ahmed Ali took out the bottle from her lower part and told to Shamsheer Ali "Ab Tu Nipat Le" then Shamsheer inserted his fingers inside her private part and turned around the same. That the complainant tried to scream due to pain, but Nazma and Bundo caught her mouth and they all caught her and meanwhile due to noise, neighbours gathered outside the house then these persons left her and went out from there and after wearing payjama, the complainant came out from room, then Shamsheer caught her and threatened her. That someone made call at no.100 and police reached there but due to the threats of Shamsheer, she only asked the police officials for return of her mobile phone and articles which had been snatched by them and the mobile phone was accordingly returned to her by the police and rest

articles were refused by them and thereafter she proceeded for her house as she got pain and bleeding and after reaching home, she did not disclose this to anyone due to her ill health and her mother sent her to her grandmothers house. That in fact the applicant Farman as well as the complainant both are working and practicing as intern at Tis Hazari Courts, Delhi, where they met and developed liking for each other, and it is the complainant, who herself expressed her love for the applicant /accused and the family of the complainant including her mother were well aware of the said love affair between them. That the applicant/accused Farman alongwith complainant used to roam together and also visited various places and went for outings. That on 13.10.2017, she alongwith the applicant and other friends went to Jama Masjid and in November, 2019, they went to Chandigarh. That on 04.08.2018 the complainant with her family solemnized the birthday of applicant and also on 15.8.2018, the applicant Farman on the invitation of complainant and her mother, went for picnic at India Gate and they enjoyed their love life together and there was no inducement, compulsion, force or pressure from the side of applicant /accused. That on 13.12.2019, the applicant/accused Farman alongwith complainant together attended the marriage of one colleague Advocate and they both also went together at Dominos, Tis Hazari in year 2019. That the complainant and applicant enjoyed their love relations happily and there was no inducement or force from the side of accused, which is evident from various photographs placed by the applicant /accused. That after sometime, the complainant started behaving indifferently and started pressurizing and making demand of costly gifts and cash, and the applicant used to make purchases for her i.e. he had purchased

some jewellery worth Rs.6200/- from M/S New Arun Jewellers, Gandhi Nagar, Delhi on 29.1.2020, and he also purchased a Oppo F-15 Mobile as per the demand of complainant on 27.1.2020 on finance from Bajaj Finance. That the applicant has also booked Oyo 834 Shree Balaji Hotel Faridabad on 30.1.2019 in order to celebrate the birthday of complainant and also celebrated her birthday on 30.01.2020 at Sukhdev Dhaba Murthal with her friends, booking receipt and Photographs are filed on the record. That in fact there was marriage of sister of the applicant namely Shabana on 22.2.2019 and said marriage was attended by the complainant along with her sister, mother and brother at Siyana, Bulandshahar, U.P and even she presented gifts to the brother in Law of applicant and had photographs with the brother in law and sister of applicant. That later the complainant turned dishonest and started blackmailing the applicant Farman and made demand of money and the applicant succumbed to her illegal demands and deposited money from time to time into the account of mother of the complainant namely Smt. Shehzadi as well as into the account of her maternal aunt (Mami) of complainant on her instructions i.e. Rs.2000/- on 2.2.2020, Rs.15000/- on 24.2.2020, Rs.10,000/- on 24.2.2020, Rs.4700/- on 10.2.2020, Rs.9550/- on 1.3.2020, Rs.4900/- on 12.3.2020, Rs.500/- on 2.6.2020, Rs.1000/- on 6-8.2020, Rs.3000/- on 27.2.2020, Copy of the receipts of payment are annexed with the application. That thereafter the complainant in order to harass and exert pressure upon the applicant, lodged a false and frivolous complaint with P.S. Paharganj which was later on compromised on 28.9.2020 and she gave a written undertaking/letter wherein she categorically stated that the physical relations were developed between them out of her

own free will and consent and she lodged a complaint due to anger and now she wants to marry him and does not want any legal action. That in fact after the aforesaid complaint, the complainant as well as her family and the police officials started pressurizing the applicant either to marry her or he will be booked in a false case of rape and under such compulsion, pressure and threats, the Nikah of the applicant was performed with complainant at the residence of the complainant on 28.9.2020 in the presence of mother and other family members of complainant and no one from the side of family of applicant attended the said Nikah. Copy of Nikahnama and the photographs of Nikah are annexed with the application. That when the family of applicant came to know about the said Nikah performed against their wishes and consent, they disowned him and severed all relations with him. On 14.11.2020, the complainant along with her uncle went to the parental house of applicant and started making video from her mobile and started abusing, quarrelling and assaulting the sisters of applicant and created ruckus. The applicant's relative Shehzad made call at no. 112 and the complainant extended threats to implicate the entire family in false case. In this regard a complaint was lodged by the mother of applicant with SSP Bulandshahar on 20.11.2020 and other authorities. That the complainant and applicant had regular conversation over whatsapp and she was in continuous touch with the applicant, which in no manner shows that she was ever induced or forced by the applicant to have any relationship with him. That the complainant has also lodged a complaint before the CAW Cell, Kamla Market, Delhi against the applicant /accused for the offence of mental and physical torture for demand of dowry.

I have heard the Ld. Counsel for the accused-applicants at length and perused the material annexed with the application as well as the reply filed by the IO. The accused-applicant with co-accused Danish is alleged to have raped the prosecutrix while she was in a state of intoxication from some spurious substance administered to her by the accused-applicant mixed in cold drink at some undisclosed location in Faridabad. There is no material collated in respect of this first incident dated 4.3.2018. So far as accused Danish is concerned, there are no further allegations of any kind except for this incident that occurred at an undisclosed location in Faridabad in the year 2018 which was not reported to the police immediately, but has surfaced for the first time in the FIR registered in the year 2021, despite the allegation that the prosecutrix was suffering bleeding from her private parts, had walked down to the highway and taken an auto rickshaw to reach her residence. She did not also confide about the same with any other family member much less report it to the police. The prosecutrix is not even absolutely certain that accused Danish had committed any such act of rape, as per the allegations raised in the FIR she had lost her consciousness upon being administered something intoxicating by accused Farman. The allegations are raised on the premise that the complainant was naked, both accused Danish and Farman were in a state of undress when she came to her senses and Danish had shown her video recording of the indecent act committed by both of them on his mobile phone.

As the first incident required proper investigation the allegations in the FIR being too sketchy and highly belated, IO was directed under the previous order to file separate report in respect of the alleged

incident involving accused Danish, whether there is any disclosure recorded of accused Farman in respect of place of incident and if such alleged place of incident could be verified and presence of accused Danish could be ascertained and **accused Danish** for this purposes was directed to join investigation with the IO on **29.04.2021 and 01.05.2021 and as and when so directed by the IO.**

Accused Danish in pursuance thereto is reported by the IO to have joined investigation and the alleged place of incident has been visited and inspected several times by the IO and the IO has reported that it is a busy motor market and occurrence of any such incident in day time is highly improbable. Custodial interrogation is not sought of the accused Danish by the investigating agency. In such totality of the facts and circumstances taking into account the inordinate and unexplained delay, the nature of accusations, the Report of IO, as the chargesheet is filed, as the accused Danish has joined investigation and as custodial interrogation is not sought of the accused Danish by the investigating agency, anticipatory bail is granted to Applicant Danish in case FIR No. 18/2021, and it is ordered that in the event of his arrest in connection with case FIR no.18/2021, PS Paharganj, he be released on bail upon his furnishing personal bond with one surety in the amount of Rs. 20,000/- each to the satisfaction of the IO/SHO concerned and upon the condition that he shall continue to join investigation in the present case as and when called upon to do so by the IO.

Accused Farman with co-accused Azam Ali is alleged to have raped the prosecutrix at Ashirwad Hotel on 14.3.2018, and as is emerging from the reply, the IO has collected the ID's from the hotel. It

is however not brought forth if the ID of accused Azam Ali was also collected.No further allegations surface in the FIR against accused Azam Ali, except for that he was consulted by accused Farman at the time of performing Nikah with the prosecutrix, per se not incriminating at all.IO was directed to file separate report in respect of the material collected against accused Azam Ali in respect of incident dated 14.03.2018 and for this purpose **accused Azam Ali was called upto** join investigation with the IO in the present case on **30.04.2021 and 02.05.2021** and as and when so directed by the IO. Report of the IO is filed to the effect that the accused Azam Ali has since joined investigation, clarified about his whereabouts on the date of incident and his presence on the said date at the said hotel has not been affirmed as there was no document / record with the said hotel relating to him nor the staff of the hotel could certify to his presence. The documents pertaining to the prosecutrix and accused Farman were however furnished and collected. The allegations have gone unsubstantiated in the course of investigation, Chargesheet is filed ,as the accused Azam Ali has joined investigation and as custodial interrogation is not sought of the accused Azam Ali by the investigating agency, anticipatory bail is granted to Applicant Azam Ali in case FIR No. 18/2021, and it is ordered that in the event of his arrest in connection with case FIR no.18/2021, PS Paharganj, he be released on bail upon his furnishing personal bond with one surety in the amount of Rs. 20,000/- each to the satisfaction of the IO/SHO concerned and upon the condition that he shall continue to join investigation in the present case as and when called upon to do so by the IO.

The first incident of rape against accused Farman is alleged to

have been committed on 4.3.2021, the second incident is dated 14.3.2021, and it is also alleged that thereafter the accused-applicant continued to establish forced physical relations with her threatening her to expose her which continued till lockdown was announced, the dates and places are left discreet. Accused Farman is then alleged to have raped the prosecutrix at her residence on 28.9.2020. Prosecutrix is alleged to have called the police by making the 100 number call. On 28.9.2020 itself accused Farman performed Nikah with her. This Nikah as per the prosecutrix is performed against her wishes and as per the accused Farman was forced upon him. The prosecutrix accompanied accused Farman to his ancestral village where they stayed together for a few days. The prosecutrix then came to her parental home where accused Farman is alleged to have abandoned her on a false pretext. There is another incident elaborated in the FIR involving all the family members of accused Farman, the remaining six applicants namely **Nazma @ Najjo, Firdaus @ Bhuri, Ahmad Ali, Bundo, Danish, Shamsheer Khan, Shabana and Zeba**, that took place at the ancestral village of the accused Farman on 4.11.2020 attributing horrendous acts and commissions like insertion of bottle in private parts by the father in law. IO is stated to have recorded statements of some locals in respect thereof. Accused Farman contends that the relationship was all along consensual and has filed photographs and video recordings of certain visits marriage function of his sister receipts of gifts purchased for the complainant and payments made at the instance of the complainant in the bank account of the relatives of the complainant. The complainant has leveled serious allegations enrobing several accused, including all family members of the accused Farman. IO was directed to place on

record the statement of the independent witnesses recorded in respect of the incident dated 4.11.2020, and the PCR call Form generated in respect thereof, and the proceedings conducted by the local police pertaining thereto. The allegations are particularly spine chilling and horrendous and if are mere concoctions then equally repulsive conduct of the complainant and for the purposes Accused **Nazma @ Najjo, Firdaus @ Bhuri, Ahmad Ali, Bundo, Shamsheer Khan, Shabana and Zeba** were also directed to join investigation in the present case with the IO on **01.05.2021 and as and when so directed by the IO.**

As per report filed by the IO, all the accused have joined investigation, enquiries made from the local police have not confirmed the allegations, Further the complainant on 18.11.2021, filed one complaint before CAW Cell against Farman and did not allege anything in respect of the incident dated 14.11.2020. The serious allegations have not been substantiated in the course of investigation, Chargesheet is filed ,as the accused have joined investigation and as custodial interrogation is not sought of the accused by the investigating agency, anticipatory bail is granted to Applicants **Nazma @ Najjo, Firdaus @ Bhuri, Ahmad Ali, Bundo, Shamsheer Khan, Shabana and Zebain** case FIR No. 18/2021, and it is ordered that in the event of their arrest in connection with case FIR no.18/2021, PS Paharganj, the applicants **Nazma @ Najjo, Firdaus @ Bhuri, Ahmad Ali, Bundo, Shamsheer Khan, Shabana and Zeba** be released on bail upon furnishing personal bond with one surety in the amount of Rs. 20,000/- each to the satisfaction of the IO/SHO concerned and upon the condition that they shall continue to join investigation in the present case as and when called upon to do so by the IO.

Application is disposed of accordingly.

Copy dasti through electronic mode.

A handwritten signature in blue ink, appearing to read 'Neelofer', with a horizontal line drawn underneath it.

(Neelofer Abida Perveen)
Special Judge: NDPS
ASJ (Central) THC/Delhi
08.06.2021