

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 09 March, 2015

+ BAIL APPLN. 1790/2014

RAKESH PANDEY

..... Petitioner

Through: Mr D.K. Singh and Mr Pankaj, Advs.

versus

STATE

..... Respondent

Through: Mr O.P. Saxena, Additional Public  
Prosecutor for the State alongwith WSI  
Sona Police Station North Rohini, Delhi.

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CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

: SUNITA GUPTA, J.

1. By virtue of this application under Section 438 of Cr.PC the petitioner seeks anticipatory bail in case FIR No.324/2014 under Section 376 IPC registered at Police Station North Rohini, Delhi.
2. The FIR in the instant case was registered on the complaint of prosecutrix wherein she alleged that she is a divorcee. The divorce was granted on 11.03.2014. The petitioner/applicant - Rakesh Pandey, who was the friend of her husband – Pramod Kuamr, was on visiting terms to her house. When the relations between her and husband were becoming strained, at that time the applicant used to be sympathetic towards her and after divorce he started visiting her quite frequently. After divorce, he proposed to marry her which proposal was accepted by her. On 05.05.2014 at about 6.30 am, the applicant forcibly had physical relations with her. She informed him that she is a divorcee and is having a child and he spoiled her life by having physical relations with her on which he told her

that the friendship will now turn into marriage. On the same day, the petitioner/applicant took her gold jewellery, Rs.25,000/- and two ATM cards on the ground that he is going to his village in order to talk to his parents regarding marriage. Thereafter, she went to her brother's place and when she returned back she found a new lock on the premises and the landlady informed her that new lock has been put by the applicant. She came to know that the applicant is marrying some other lady. She talked to the applicant but he refused to marry her. On the basis of this complaint the aforesaid FIR was registered.

3. It is submitted by learned counsel for the applicant /petitioner that the applicant and the complainant were known to each other as they had been residing in the same street and their houses were adjacent to each other. They were only friends and there was no question of marriage as the complainant was already married. The complaint made by the complainant against her husband reflects that the complainant and the applicant were having relations during subsistence of the first marriage of the complainant. The complaint has been filed in order to extort money from the applicant. There is delay of lodging the instant FIR as the allegations are pertaining to 05.05.2014 whereas the FIR was lodged on 20.05.2014. The FIR was lodged in fact after the applicant got remarried on 16.05.2014. Even thereafter the complainant has been sending SMSs to the applicant. The applicant joined investigation as such he be granted anticipatory bail.

4. The application is opposed by learned Additional Public Prosecutor for the State on the ground that the allegations are serious in nature. The averments made by the prosecutrix were reiterated in her statement recorded by learned Metropolitan Magistrate under Section 164 Cr.PC. Further medical examination reveals nails on her thigh. The applicant is evading arrest as such proceedings under Section 82/83 Cr.PC have been initiated against him. The recovery of gold ornaments, cash and ATM cards of the complainant is yet to be effected as such

the bail application is opposed.

5. As per the allegations made by the complainant, the applicant took advantage of the vulnerable position of the complainant who was having strained relations with her husband by winning her confidence. Thereafter on the pretext of marriage he had physical relations with her but then got married to some other lady. He also took away the gold ornaments, cash and ATM cards of complainant which are required to be recovered. That being so, custodial interrogation of the applicant is required.

6. Under the circumstances, it is not a fit case for grant of anticipatory bail as such, application is dismissed. The interim protection granted to the applicant/petitioner vide order dated 09.09.2014 and continued thereafter stands vacated.

The application stands disposed of accordingly.

**(SUNITA GUPTA)**  
**JUDGE**

**March 09, 2015/rd**