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

Date of Decision: February 25, 2015

+ **CRL.M.C. 4530/2014**

RUKHSANA Petitioner
Through: Ms. Prabha Sharma, Advocate

versus

NAWAB ALI & ANR Respondents
Through: Mr. Karan Singh, Additional
Public Prosecutor for respondent-
State with ASI Bani Singh
Mr. Rajesh Raina, Advocate for
respondent No.2

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

Respondent-accused was granted pre-arrest bail in FIR No.152/2013 under Sections 498-A/406/34 of IPC registered at P.S. Jamia Nagar, Delhi in view of the *Memorandum of Understanding* executed on 25th January, 2014. Since respondent-accused did not comply with the terms of the *Memorandum of Understanding*, petitioner-complainant had sought cancellation of pre-arrest bail granted to respondent-accused, which was declined vide impugned order of 5th August, 2014.

Upon hearing and on perusal of the impugned order and the

material on record, I find that respondent-accused cannot wriggle out of the *Memorandum of Understanding* on the pretext that it was under the pressure of his counsel and the other counsel, who had been infact engaged by complainant.

It appears from the impugned order that respondent-accused had volunteered to give a sum of ₹18,000/- to petitioner-complainant, which she had refused. Respondent-accused claims that he is diabetic and has become totally blind and is thus unable to honour the *Memorandum of Understanding*.

During the course of hearing, it was disclosed that when the *Memorandum of Understanding* was executed, respondent-accused was blind even then also and was out of job due to his blindness. In such a situation, it is not acceptable that the *Memorandum of Understanding* was executed by respondent-accused under some duress.

In view of aforesaid, order of 25th January, 2014 granting pre-arrest bail to respondent-accused on the basis of *Memorandum of Understanding* is hereby quashed.

Since it is undertaken on behalf of respondent-accused that a sum of ₹20,000/- would be deposited with the trial court within a week from today, therefore, it is deemed appropriate to permit respondent-accused to seek pre-arrest bail on merits before the Sessions Court within two weeks from today. Subject to respondent-accused depositing a sum of ₹20,000/- with the trial court and applying for pre-arrest bail on merits before Sessions Court within two weeks, respondent-accused be not arrested in this FIR case till his application for pre-arrest bail is decided by Sessions Court on merits. Needless to say, accused-respondent's fresh application

for pre-arrest bail be decided on merits without taking into consideration the aforesaid *Memorandum of Understanding* or the deposit of ₹20,000/- with trial court.

With aforesaid directions, this petition is disposed of.

Copy of this order be given dasti to learned counsel for the parties.

(SUNIL GAUR)
JUDGE

FEBRUARY 25, 2015

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