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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ BAIL APPLN. 64/2016
JITENDER NAGAR

..... Petitioner

Through: Mr Naveen Gaur, Adv.
versus
STATE (NCT OF DELHI)

..... Respondent

Through: Mr Hirein Sharma, Additional Public
Prosecutor for the State alongwith Sub
Inspector Pratap Singh
Complainant in person

CORAM:
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% 25.01.2016

This is application under Section 438 of Cr.PC moved by the petitioner for grant of anticipatory bail in case FIR No. 221/2015 under Sections 376 IPC registered at Police Station Uttam Nagar, Delhi.

Learned counsel for the petitioner submits that the instant FIR is a counterblast to the complaint made by the petitioner to SHO Police Station Uttam Nagar, Delhi on 01.02.2015 and a legal notice dated 02.02.2015 sent to the complainant. Moreover, the allegation of the complainant that she got pregnant from the petitioner is false in view of the certificate of sterilization dated 22.05.2013 issued to the petitioner. It is further submitted that although in the FIR, it was alleged that the pregnancy is two months old, however, the complainant has not given birth to any child. He is ready to get any DNA test conducted. As such the petitioner be released on anticipatory bail.

Learned Additional Public Prosecutor for the State opposes the application on the ground that the allegations against the petitioner are serious in nature. The complainant got abortion done at Vikas Hospital Pvt. Ltd., Nazafgarh, Delhi and therefore there is no possibility of any DNA test conducted. It is further submitted that the complainant reiterated the averments made in the complaint in her statement under Section 164 Cr.PC. Her daughter Kavya also supported the same in her statement under Section 161 CrPC. Reliance was also placed on the photographs for submitting that the petitioner got

married with the complainant in Gautam Budh Temple near Birla Mandir by putting *sindoor* and the photographs were taken by her daughter Kavya. The petitioner concealed the fact that he was already married having two daughters as such custodial interrogation of the petitioner is required. He is not joining investigation as such he is not entitled to the relief as prayed.

As regards the submissions that the complaint made by the complainant is the counterblast to the complaint filed by the petitioner, same is not fortified by the record as the same reveals that the complainant gave a detailed complaint to SHO Police Station Uttam Nagar on 30.01.2015 itself. Another complaint was given by the complainant on 31.01.2015 stating therein that she is receiving threats from the petitioner for withdrawal of the complaint failing which she as well as her daughter is to be killed. If the FIR was registered by the police only on 16.02.2015, the complainant cannot be blamed for the same. The complaint and the legal notice sent by the petitioner are dated 01.02.2015 and 02.02.2015 respectively i.e. after the complaint were given by the complainant.

Needless to say, the allegations against the petitioner are very serious in nature as the complainant has reiterated that after death of her husband on 18.08.2013, she came in contact with the petitioner who earlier gave his name as Karan Nagar through 'Whats up'. On 11.12.2014, they got married in Gautam Budh Temple near Birla Mandir when the petitioner projected that he was unmarried. After one month of marriage, the complainant came to know that the real name of the petitioner is Jitender Nagar who is already married having two daughters. The petitioner made physical relations with the complainant as a result of which she got pregnant. However, later on, she got herself aborted.

Keeping in view the seriousness of the allegations against the petitioner, I do not deem it appropriate to release the petitioner on bail.

The application is accordingly dismissed.

SUNITA GUPTA, J

JANUARY 25, 2016/*rd*