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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 187/2016

PRADEEP KUMAR

..... Petitioner

Through

Mr. A.V. Shukla, Advocate

versus

STATE

..... Respondent

Through

Ms. Neelam Sharma, APP along with W/SI
Adesh Kumar, PS Vasant Kunj North

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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10.05.2016

1. This is an application under Section 438 Cr.P.C. filed by the petitioner seeking anticipatory bail in case FIR No.736/2015 under Section 376/377/328/344/506/509/34 IPC registered with police station Vasant Kunj (North), Delhi.

2. Petitioner is the husband of the prosecutrix. Counsel for the petitioner submits that the relation of petitioner and his wife were strained. Petition u/s 9 of Hindu Marriage Act was filed by him against the complainant which was disposed of in the Family Court, Sultanpur, UP. Prosecutrix filed a petition u/s 125 Cr.P.C. and a complaint u/s 12 of Domestic Violence Act. Since 2012, the parties are in litigation and various cases are pending against each other. The allegations against the petitioner are false. Main accused Govind has been released on bail. The petitioner is ready to join investigation and has roots in the society. As such, he be released on bail.

3. Learned APP for the State, on the other hand, opposes the application on the ground that the petitioner cannot claim parity with co-accused Govind Kumar who was arrested by the police. Charge sheet was submitted against him. During her deposition before the Court the prosecutrix did not level any allegations

against him, therefore, he was released on bail. However, the petitioner is the husband of the prosecutrix against whom serious allegations have been made. Custodial interrogation of the petitioner is required as obscene CD/DVD, alleged to be prepared by the petitioner, is to be recovered from his possession. His conduct was also referred by submitting that non-bailable warrants were issued against him but he is absconding, therefore, same could not be executed. Proceedings u/s 82 Cr.P.C. has been initiated against him as well as co-accused. He is neither available at his permanent address nor at the official address and is also running absent since 1st January, 2016 from Kamla Nehru Institute of Technology, Sultanpur, UP where he is working. As such, he is not entitled to bail.

4. The allegations against the petitioner are grave and serious in nature. The petitioner cannot claim parity with co-accused-Govind who was arrested and since the prosecutrix did not level any allegations against him, therefore, he was ordered to be released on bail on 4th January, 2016. However, perusal of testimony of prosecutrix which has been placed on record goes to show that serious allegations have been made against the petitioner. Moreover, the conduct of the petitioner disentitles him to the discretionary relief of bail as the FIR was registered on 29th July, 2015. As per the status report, non-bailable warrants could not be executed against him since he is absconding, therefore, proceedings u/s 82 Cr.P.C. has been initiated against him. Raids were conducted at his official residence at House No. 14, Kamla Nehru Institute of Technology, Sultanpur, UP but the house was found locked since January, 2016. The office was also visited and on inquiry from director of the institute, it was revealed that the petitioner is running absent since 1st January, 2016. Raid was also conducted at his permanent address, i.e., Village Singaro, PO Autha, Police Station Meja Distt. Allahabad, UP but the house was found locked. Inquiry from the relatives at village revealed that the petitioner was living at the said address for the last 12 days but on the night of 4th March, 2016, he absconded from the same place. As such, copy of

the proceedings u/s 82 Cr.P.C. were pasted at his official residence and permanent address. Despite the fact that the petitioner is well aware of the proceedings, he is evading the process of the law with the result, the charge sheet could be filed only qua one of the accused, namely, Govind while the petitioner and another accused Arjun are absconding.

5. Keeping in view the totality of the facts and circumstances, I do not deem it appropriate to release the petitioner on bail. Accordingly, the bail application is dismissed.

SUNITA GUPTA, J

MAY 10, 2016
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