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

+ **BAIL APPLN. 211/2016**

SARITA

..... Petitioner

Through: Mr.Ashok K.Singh and Ms.Vinita
Singh, Advocates.

versus

STATE (GOVT OF DELHI ADMN.)

..... Respondent

Through: Ms.Alpana Pandey, APP for the State
with SI Somvir, PS Burari.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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16.02.2016

1. The petitioner is seeking anticipatory bail in case FIR No.11/2016 under Section 380 IPC, PS Burari, Delhi.
2. I have heard learned counsel for the petitioner as well as learned APP for the State and carefully gone through the record.
3. Learned counsel for the petitioner has submitted that the petitioner was living in a rented accommodation provided by the complainant of this case. He has drawn the attention of this Court to the contents of the FIR wherein complainant Sita Ram has himself mentioned about the goods being purchased by him on assurance by the present petitioner to marry him. The relevant portion of the FIR reads as under :-

'That on the pretext and assurance of marriage the complainant used to buy furniture, electronics item and cloths on demand of

the accused and all the articles were entrusted to her in the rented accommodation. The list of articles is attached herewith along with their original respective bills as Annexure-A. That on 01.01.2015 the accused with ulterior motive to misappropriate the articles as per list annexed above has lodged the alleged complaint against the complainant upon which the case was registered vide FIR No.3/2015 under Section 328/376 IPC, PS Burari. The complainant was arrested by the Police in the above mentioned FIR.'

4. Learned counsel for the petitioner has submitted that learned ASJ has denied the anticipatory bail to the petitioner without any reason despite the fact that the goods were entrusted to her.

5. While denying the anticipatory bail to the petitioner, the learned ASJ has observed as under:-

'As per IO, Sh.Ram Kumar, who is stated to be the landlord of the aforesaid house, has stated that he had given the premises in question on rent to the complainant Sita Ram and he was living with the applicant/accused Sarita and some household articles were also there. Therefore, in view of the submissions of Sh.Ram Kumar, it seems that the recovery of the household articles is required to be effected for further investigation of this case. Hence, it seems that it is not in the interest of justice to grant anticipatory bail to the applicant/accused Sarita. Therefore, the anticipatory bail application of the applicant/accused Sarita is dismissed and disposed of accordingly.'

6. In the case reported as **Adri Dharan Das Vs. State of West Bengal** 2005 III AD (SC) 73, the Apex Court has laid down the guidelines for release on anticipatory bail and in para 19 held as under :-

"19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the

connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his dis-appearance to maintain law and order in the locality. For these or other reasons, arrest may become inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well-defined and the jurisdictional scope of interference by the Court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interfere in the investigation, which cannot, at any rate, be done under Section 438 of the Code.”

7. In the status report submitted by the State, it is specifically mentioned that the petitioner is not residing at the given address as she has already vacated the rented premises after allegedly stealing cash of ₹9500/-, other articles and gold ornaments of the deceased wife of the complainant.

8. The status report further shows that the petitioner is not available at the given address and when contacted on her mobile and asked to disclose her address and join the investigation, she refused to disclose her address or join the investigation. It is also mentioned in the status report that custodial interrogation of the petitioner is required to effect the recovery of the goods stolen by her in respect of which a criminal breach of trust has been committed.

9. In a case under Section 380 IPC, it is necessary for the investigating officer to interrogate the petitioner and also to seek custodial interrogation

to make effort to recover the stolen goods or the goods which were entrusted to her and she failed to return the same.

10. Considering the fact and circumstances of the case and especially the conduct of the petitioner that despite being asked to disclose her address and join the investigation, she refused for the same, I do not find it to be a fit case to grant anticipatory bail to the petitioner.

11. Bail application is dismissed.

12. The observations made above are only for the purpose of deciding the bail application and shall not be considered as an expression on merits.

PRATIBHA RANI, J.

FEBRUARY 16, 2016

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