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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ BAIL APPLN. 338/2016

MANISH KAIN

..... Petitioner

Through: Mr.Vimal Puggal, Advocate

Versus

STATE (NCT OF DELHI)

..... Respondent

Through: Ms.Neelam Sharma, Additional Public
Prosecutor for the State alongwith WSI
Brahmo Devi from PS South Campus,
Delhi.

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% 16.05.2016

Apprehending his arrest in case FIR No. 03/2016 under Section 354/354-A/509 IPC Police Station South Campus, present application under Section 438 Cr.P.C has been filed by the petitioner.

Counsel for the petitioner submits that the applicant is innocent and has been falsely implicated in this case by the complainant with the active connivance of the police. The applicant has given notice to the husband of the complainant and to the MCD in the year 2014 as he was raising illegal construction. A writ petition was also filed by the applicant against the husband of the complainant. Various directions were given to MCD vide order dated 06.05.2015 to take appropriate action. The husband of the complainant has filed a suit for permanent and mandatory injunction in the year 2015 against the parents of the applicant in which they gave their statements that they have not done any illegal construction and will also not raise any illegal construction in future. The applicant gave complaint in the

MCD and also moved an RTI application on 03.08.2015 for knowing the status as to what action has been taken by the MCD against the illegal construction raised by the husband of the complainant. The present FIR is a counter blast of the same. Initially the FIR was registered under Section 354A/509 IPC but later on, Section 354 IPC was added just to arrest the accused as offence under Section 354 IPC is non-bailable. Applicant is about 24 years and is doing graduation from Delhi University. He has already joined investigation, as such, be released on bail.

In the status report submitted by the learned Public Prosecutor for the State, it is not disputed that pursuant to the directions given by the learned Additional Sessions Judge as well as by this Court, the petitioner has joined investigation and his custodial interrogation is not required. As such, keeping in view the totality of facts and circumstances, in the event of arrest:

- (i) Petitioner be admitted to bail on his executing personal bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety in the like amount to the satisfaction of the concerned I.O./SHO.
- (ii) He shall join the investigation as and when called for by the I.O.
- (iii) He shall furnish his address as well as his contact number to the Investigating Officer.
- (iv) He shall not threaten or coerce complainant or any prosecution witness.

The application is accordingly disposed of.

Copy of this order be given *dasti* to counsel for the petitioner.

SUNITA GUPTA, J

MAY 16, 2016/mb