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

+ **BAIL APPLN. 499/2016**

MOHD. UMAR

..... Petitioner

Represented by: **Mr. Akhil Sibal with Mr. Javed Ali, Advs.**

versus

NCT OF DELHI

..... Respondent

Represented by: **Mr. Kewal Singh Ahuja, APP with ACP Sandeep Lamba and W/SI Anita, PS Gokalpuri.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

19.08.2016

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1. By the present petition, the petitioner seeks regular bail in case FIR No.588/2015 under Sections 376/506/34 IPC registered at PS Gokalpuri.
2. Learned counsel for the petitioner contends that not only the petitioner but also his family members have been falsely implicated in the above-noted FIR. The house where the petitioner was residing was admeasuring 200 sq.yds comprising of a basement, ground floor, first floor and second floor. In the basement there was a jeans factory, on the ground floor a coat factory and on the first floor there were 8 rooms out of which 5 rooms were on one side and 3 rooms on the other side facing each other where number of people were residing. On the second floor, the petitioner along with his family members was residing. Thus, in such a crowded place where commercial activities were also going on, the allegations of the complainant

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that she was confined and raped for a long time are unsustainable. According to the petitioner, the complainant had approached her father for taking one room on rent and stated that her husband was out of station and would join her later. The complainant started living in a room at first floor along with other tenants who were residing with their families. Marriage of the petitioner was solemnized on 4th April, 2015 and his sister on 5th April, 2015 which was duly attended by the complainant. When the complainant was asked to vacate the room, she vacated it in a fit of rage and falsely implicated the petitioner. The allegations in the FIR are vague and despite the repeated requests of the petitioner to get conducted the DNA analysis of the baby boy, she is not forthcoming. Her present whereabouts are not known and there is no likelihood of her being examined before Trial Court in near future, thus bail be granted to the petitioner.

3. Learned APP for the State has taken me through the FIR.

4. The allegations in the FIR are that the complainant was residing on rent in the house of the petitioner for the last 3-4 months. During this period, the petitioner used to tease her for which she complained to his parents but they did not pay any heed. Finally, the complainant decided to vacate the house and conveyed the said message. On the day when she conveyed the message to vacate the house, the petitioner came in the evening and forcefully threw her inside the room and bolted the room from inside. He tied her hands and leg and committed “jabardasti” with her. When she informed his parents, he threatened her. Her parents and sister did not allow her to go out of the house and threatened to kill her. It is stated that at the time of petitioner’s marriage, the complainant was shifted

to another rented accommodation and two persons were deployed outside the house. The petitioner used to visit her and have physical relations on the pretext that he would soon marry her.

5. Prima facie, the fact that complainant was confined at the time of marriage of the petitioner is belied by her presence in the photographs of the marriage of the petitioner. The petitioner has been in custody since December, 2015. The complainant is not forthcoming to disclose her address to the investigating officer and her whereabouts are thus not known. As per the status report, she is avoiding DNA analysis of baby boy born on 2nd December, 2015.

6. Considering the facts and circumstances of the case and that trial is likely to take some time, I deem it fit to grant bail to the petitioner. Consequently, it is directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25000/- with two sureties of the like amount subject to the satisfaction of learned Trial Court, further subject to the condition that the petitioner will not leave the country without prior permission of the Court concerned.

7. Petition is disposed of.

8. Order dasti.

MUKTA GUPTA, J.

AUGUST 19, 2016
‘V MITTAL’