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

+ **BAIL APPLN. 683/2016**

VIJAY SINGH

..... Petitioner

Represented by: Mr. Arun Maitri with Mr.
Praveen Marahatta, Advs.

versus

STATE OF NCT OF DELHI

..... Respondent

Represented by: Mr. Kewal Singh Ahuja, APP
with Mr. Dinesh Sharma, ACP
Madhu Vihar, Insp.
Dharmendra Kumar, SHO, PS
Mandawali and SI Asha, PS
Mandawali.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

12.08.2016

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1. By the present petition, the petitioner who is the brother-in-law of the complainant seeks anticipatory bail in case FIR No.97/2016 under Section 376 IPC registered at PS Mandawali.

2. Learned counsel for the petitioner submits that the complainant is the wife of petitioner's brother both of whom are having matrimonial dispute. After the petitioner went to her on 11th February, 2016 to see that both of them settle the matter, the complainant lodged the abovementioned FIR on 19th February, 2016 alleging incident of 11th February, 2016 and 16th

BAIL APPLN. 683/2016

Page 1 of 4

February, 2016. After registration of FIR which was got registered belatedly, the complainant refused to undergo medical examination. Further on 16th February, 2016 when the complainant alleged that the petitioner along with his friend committed rape on her, the petitioner was not even in Delhi which fact can be verified from the CCTV footage of Toll Plaza and his mobile phone call details.

3. On a notice being issued, status report was filed by the State. The status report noted the allegations in the FIR and statement of the prosecutrix. However after arguments vide order dated 20th July, 2016 directions were given to the State to file detailed status report verifying the facts stated by the petitioner, pursuant whereof detailed status report has been filed.

4. In the FIR, registered on 19th February, 2016 the complainant alleged that on 11th February, 2016 her brother in law i.e. the petitioner herein along with his friend came at her house to intervene in the dispute. At about 1.30 pm when she went to make tea in the kitchen, they shut the door and forcibly raped her and took her photographs. They threatened to kill her if she did not keep her mouth shut. She further alleged that on 16th February, 2016 the petitioner and his same friend again came and asked her to make relations with him and threatened if she shouted then he would circulate the photographs in her relations. After hearing the noise, her sister-in-law came and she narrated the incident to her. By then both of them absconded. She alleged that her brother-in-law had earlier also done wrong acts with her. These allegations were reiterated by the complainant in her statement under Section 164 Cr.P.C.

5. In the detailed status report filed on 11th August, 2016 verification could not be done from CCTV footage of Toll Plaza however, the CDR of petitioner reflects that he was not in Delhi and was at Village Sherpur, Gurgaon, Haryana and at Mahendergarh, Haryana.

6. The petitioner before this Court has again pleaded that the CCTV footage has been kept in safe custody because the petitioner attended the proceedings before the Court at Narnaul.

7. After verification was done and it was found that petitioner was not in Delhi on 16th February, 2016, the complainant was re-examined when she stated that on 16th February, 2016 the friend of the petitioner who came with him on 11th February, 2016 came along with another person and the petitioner was not there.

8. As regards the incident dated 11th February, 2016, call details of the petitioner's mobile phone have been seized which shows that around 13.19 hours the petitioner reached near the house of the complainant and was talking on phone intermittently to different persons till 13.30 hours. By 13.55 hours he had reached back his work place. Thus, during the time period when the complainant alleged that the petitioner and his friend committed rape on her, the petitioner was talking on phone for a substantial number of times.

9. Considering the evidence on record, the fact that there is already a matrimonial dispute between the brother of petitioner and the complainant and even as per the complainant, the petitioner had visited her on 11th February, 2016 to resolve the dispute between her and her husband, I deem it fit to grant anticipatory bail to the petitioner. It is thus directed that in the

event of arrest, the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with one surety of the like amount subject to the satisfaction of Arresting Officer/SHO concerned and further subject to the condition that he will join the investigation as and when directed by the investigating officer and will not leave the country without prior permission of the learned Trial Court.

10. Petition is disposed of.

11. Order dasti.

MUKTA GUPTA, J.

AUGUST 12, 2016
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