

\$~1

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

BAIL APPLN. 1032/2016

RAJINDER

..... Petitioner

Through:

Mr Surinder Kumar and Ms Jyotsana, Advs.

versus

STATE

..... Respondent

Through:

Ms Neelam Sharma, Additional Public
Prosecutor for the State alongwith Sub Inspector
Uma Datt Police Station Mangolpuri, Delhi
Counsel for the complainant (presence not
given) alongwith complainant in person

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

%

31.05.2016

This is application under Section 438 of Cr.P.C moved by the petitioner for grant of anticipatory bail in case FIR No. 588/2016 under Ss. 323/354/354A/354B/451/509/34 IPC registered at Police Station Mangol Puri, Delhi.

Counsel for the petitioner submits that initially for the same incident a *kalandara* under S.107/ 151 Cr.PC was prepared wherein the petitioner was sent to judicial custody and he remained in jail for 3 days. After the incident, the case was registered on the complaint of the complainant. It is further submitted that the complainant is giving different versions at different stages of the proceedings. There is variation in her initial statements under Section 161 Cr.PC and 164 Cr.PC. Moreover, when she was taken for medical examination, no history of sexual assault was given. The petitioner is ready to join the investigation as such he be granted benefit of anticipatory bail.

The application is opposed by learned Additional Public Prosecutor for the State duly supported by counsel for the complainant on the ground that the allegations are serious in nature. Counsel for the complainant further submits that the complainant is receiving constant threats from the accused party as such petitioner does not deserve the benefit of bail.

It is not in dispute that the incident took place on 01.05.2016. On receipt of call regarding quarrel DD No. 5PP was recorded. Thereafter, both the parties were arrested for offences under Ss. 107/151 Cr.P.C. and petitioner including others were sent to jail. Thereafter, the complaint was made by the victim. Prior thereto, she was taken to Sanjay Gandhi Memorial

Hospital, Mangol Puri, Delhi. As per MLC, the patient left casualty before the preparation of MLC and examination by other doctors. She was again brought back for MLC with alleged history of physical assault. However, at that time no history of sexual assault was given. It is not disputed by the complainant that for the alleged threat to her by the petitioner, no complaint has been lodged by her with the police. For the same incident, the petitioner has already remained in jail for the period of three days. As such, without expressing any opinion on merits of the case, it is ordered that in the event of his 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.

MAY 31, 2016

SUNITA GUPTA, J