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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ Bail Application No.1355/2016

HITESH ARORA

..... Petitioner

Through: Mr.Vishal Batra, Adv.

Versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Ms.Manjeet Arya, APP for the State.

SI Lichhman, PS South Rohini.

Mr.Ashish Sehrawat, Adv. for
complainant.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

% **14.07.2016**

1. The present bail application has been filed under Section 438 of the Code of Criminal Procedure (Cr.P.C.) for grant of pre-arrest bail to the petitioner, in a case arising out of FIR No.663/2015 registered under Sections 498-A/406/34 of the Indian Penal Code (IPC) read with Section 4 of Dowry Prohibition Act, at Police Station Rohini South, Delhi.

2. The facts giving rise to the present petition are within the narrow compass. Learned counsel for the petitioner has submitted that the marriage between the petitioner and complainant was solemnized on 21st April, 2014 without any dowry. It is stated that

the distant family members of the petitioner i.e. elder brother, sister and their family members, who have been falsely implicated in the FIR, returned back by the night train on 22nd April, 2014 which was the very same date the complainant came home after the wedding. The petitioner and the complainant thereafter returned from Jhansi to the house of the petitioner at Noida in the course of five days after the marriage. On 20th June, 2014, the complainant is stated to have left the petitioner's house without consummating the marriage.

3. Learned counsel for the petitioner has further stated that on 31st August, 2014, after about two months, the complainant along with her parents visited the petitioner's house and took back all her remaining clothes and other belongings including the jewellery articles as well as the clothes given to her by the petitioner. It is contended by learned counsel for the petitioner that the complainant and her parents have admitted this fact in their meeting with the petitioner and his family members. The recording of the said meeting and relevant transcript is stated to be on record.

4. It is next submitted by learned counsel for the petitioner that thereafter, the family of the petitioner made several efforts to convince the complainant for returning to her matrimonial home

but to no avail. It is further submitted that the uncle of the complainant demanded fifty per cent of the petitioner's properties and his two year salary amount to end the matter and dissolve the marriage. However, the petitioner is stated to have refused to agree to the said extortion demands. It is alleged that the uncle of the complainant also threatened the petitioner and his family members to lodge a criminal case against them.

5. On 21st May, 2015, the complainant lodged a false complaint at CAW Cell roping in all nine members of the petitioner's family including petitioner's married sisters and brother and their family members who are living separately. It is next averred that the petitioner with the intention to resolve the disputes, attended all mediation hearings in CAW Cell but the complainant's uncle again demanded Rs.30.00 lakhs to withdraw the complaint and upon refusal of the petitioner, the mediation between the parties did not succeed.

6. It is further stated by learned counsel for the petitioner that on the application of the accused persons, the Court of Sessions, Rohini, granted five days notice bail to the accused persons. Learned counsel for the petitioner has submitted that the petitioner and the other accused persons, have been regularly attending the investigation as and when required by the investigating officer.

7. It is further stated by learned counsel for the petitioner that on 27th May, 2016, the applicant filed an application under Section 159 Cr. P.C. before the learned Metropolitan Magistrate, Rohini wherein the investigating officer assured to conduct proper and detailed investigation. On 28th June, 2016, the petitioner received Arrest Notice without disclosing any grounds of arrest.

8. Learned Additional Public Prosecutor for the State, on the other hand, opposed the grant of bail on the ground that the allegations against the petitioner are serious in nature inasmuch as the petitioner did not return the dowry articles of the complainant and that the petitioner may not co-operate in the investigation.

9. I have heard the submissions of learned counsel appearing on behalf of the petitioner as well as the submissions of learned Additional Public Prosecutor for the State and also gone through the material placed on record.

10. To decide the present bail application, what the Court is required to see is, as to whether a prima facie case is made out for grant of bail to the petitioner or not.

11. The dispute in the present case arose out of matrimonial discord. The learned counsel for the petitioner has assured this Court that the petitioner and other accused persons shall co-operate and join investigation as and when required. There does not appear

to be any circumstance for the custodial interrogation of the petitioner. More the reason, nothing proves the direct involvement of the petitioner in the alleged case or demand of dowry by the petitioner from the complainant.

12. In light of the facts and circumstances of the present case, this Court is inclined to grant pre-arrest bail to the petitioner – Hitesh Arora in the present case subject to his furnishing personal bond in the sum of Rs.25,000/- with two sureties of the like amount, to the satisfaction of the Trial Court.

13. The petitioner is directed not to tamper with the evidence, not to influence the prosecution witnesses and shall not leave the country without prior permission of the Court concerned.

14. Before parting with the order, this Court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

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15. With aforesaid directions, the present bail application stands disposed of.

Dasti.


P.S. TEJ, J

JULY 15, 2016/aa