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

+ **BAIL APPLN. 1487/2016**

NASIR

..... Petitioner

Represented by:

versus

THE STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Represented by:

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

07.11.2016

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1. By the present petition the petitioner seeks anticipatory bail in case FIR No.245/2016 under Section 376 IPC.

2. Learned counsel for the petitioner submits that the petitioner is the elder brother-in-law of the prosecutrix and has been falsely implicated due to the matrimonial discord between the prosecutrix and her husband. The petitioner and the prosecutrix were residing at different houses. In fact on the threat of the prosecutrix, the residences of the petitioner and her husband were separated. The prosecutrix was even then not residing with her husband and had gone to her parents house in the month of November 2015 and returned only in April, 2016 and within a month thereof got registered the above-noted false FIR. It is further stated that the husband of the

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prosecutrix had lodged two DD entries expressing his apprehension that the prosecutrix would implicate him and his family members in false cases.

3. Learned APP for the State has taken me through the status report. As per the status report a PCR call was received on 29th May, 2016 whereby the caller who is the father of the prosecutrix informed that his daughter has been raped by his brother-in-law i.e. the petitioner herein. During inquiry statement of the prosecutrix was recorded. The prosecutrix was examined who gave a hand-written complaint wherein she stated that on 26th May, 2016 at 4.00 PM when she was sleeping her brother-in-law came to her room, misbehaved and molested her and later raped her. Later when she informed about the incident to her husband, mother-in-law and sister-in-law they ignored and did not pay attention to it and became furious. It was further alleged that on 28th May, 2016 she called her parents at her in-law's address and on seeing her parents her husband hit her head on the wall resulting in injuries to her. Her father made a call at 100 number.

4. A perusal of the MLC of the prosecutrix conducted on 29th May, 2016 reveals no external injury though it is specifically alleged that on 29th May, 2016 the husband of the prosecutrix banged her head on the wall resulting in injuries to her. The petitioner has placed on record DD No.52-B lodged on 25th May, 2015 by the brother of the petitioner wherein he informed that his wife and parents have been abusing and quarrelling with his family. On 6th November, 2015 when he was not at home his wife left the house without telling him and when he made a phone call he was abused and threatened. The petitioner has joined the investigation. Except recording the statement of the prosecutrix under Section 164 Cr.P.C. and getting her medically

examined the investigating officer has not conducted any investigation with regard to any of the attending circumstances.

5. Considering the facts and circumstances of the case I deem it fit to grant anticipatory bail to the petitioner. It is therefore 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 two sureties of the like amount subject to the satisfaction of the Arresting Officer/ SHO concerned, further subject to the condition that he will join the investigation as and when directed and will not leave the country without the prior permission of the Court concerned.

6. Petition is disposed of. Order dasti.

MUKTA GUPTA, J.

NOVEMBER 07, 2016
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