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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1595/2016**
KHUSHWANT SINGH Petitioner
Through **Mr.Maninder Singh, Adv. with**
Ms.Aekta Vats, Adv. & Ms.Smriti
Asmita, Adv.

versus

STATE (NCT OF DELHI) Respondent
Through **Mr.Amit Chadha, APP for the State.**
Inspt.Usha Sharma, PS Hari Nagar.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

ORDER
% **10.08.2016**

1. The present second anticipatory bail application has been filed by the petitioner under Section 438 of the Code of Criminal Procedure (Cr.P.C.) in a case arising out of FIR No.707/2015 registered under Sections 376/506 of the Indian Penal Code at Police Station Hari Nagar.

2. A thumbnail sketch of the facts of the case, as emerges from the records is that the complainant-Rekha in her complaint had alleged that the petitioner-accused met her in a club where he took her phone number. On the very next day, the applicant made a call to her and told her that he had many hotels and he could get her a job. Thereafter, on 7th May, 2015, he called her to Amritsar with her husband for a job. As per the complainant, she met the accused at Sherawala Chowk at Amritsar from where he took her to an

abandoned place in his car and told her that he would get her a job provided if she agreed to have sex with him, to which she agreed. It is further alleged that after returning to Delhi, the petitioner made many calls to the complainant to which she did not respond, but on 13th May, 2015, after repeated calls, she picked the phone and the applicant called her near Tilak Nagar Gol Chakkar at about 9.30 p.m. from where he took her to a shop and made her drink a cola and after drinking, she felt giddy. Thereafter, he took her to a deserted place and forcibly raped her.

3. The complainant, thereafter, talked to her husband who further called at 100 number. The Police reached the spot and took the victim/complainant to DDU Hospital for medical test. The statement of the victim-complainant was recorded and she was medically examined by the doctor.

4. The petitioner moved an application before the Session Court seeking anticipatory bail and the same was dismissed on 23rd May, 2015. Thereafter, the petitioner approached this Court and vide order dated 1st June, 2015, this Court ordered not to take any coercive steps against the petitioner, subject to the petitioner joining the investigation as and when directed by the investigating officer.

5. This court passed a detailed judgment in first Bail Application No.1106/2015 on 19th July, 2016 running into seven pages in the facts and circumstances of the case as well as on law and dismissed the same.

6. It is submitted by Inspector Usha Sharma, who is present in Court that after the dismissal of the first bail application, the

petitioner is absconding and non-bailable warrants have been issued against the petitioner. Subsequently, proceedings under Section 82 of the Cr.P.C. have also been initiated against the petitioner.

6. Learned counsel for the petitioner has submitted that the present application has been preferred on the fresh plea of change in circumstances that the complainant has falsely filed the FIR No.0707/2015 under Section 376 of the IPC. In this regard, learned counsel for the petitioner relies on the order dated 11th February, 2016 passed by the learned Additional Sessions Judge in a case arising out of FIR No.1584/2015 under Section 376 IPC in which the prosecutrix (complainant herein) had filed similar complaint against different person by fictitious name and seeing the conduct of the prosecutrix/complainant for filing three different FIRs for the offence of rape, the bail application was allowed and the applicant was released on bail on furnishing personal bond in the sum of Rs.40,000/- with one surety of the like amount to the satisfaction of the IO/SHO. However, the applicant was directed to join the investigation as and when required. The petitioner has, therefore, prayed for grant of bail on the ground of parity.

7. In support of his case, learned counsel for the petitioner relies on the judgment passed by this Court in Bail Application No.1317/2012 on 29th November, 2012 entitled ***Jagdish Nautiyal Vs. State.***

8. I have gone through the records and the judgment cited by learned counsel for the petitioner. The totality of the circumstances mentioned above shows that the FIR has already been registered

against the petitioner and the submission of the petitioner are just mud slugging and character impeachment of the complainant rather to show any change in the circumstances. Apparently, the petitioner is successfully avoiding the arrest and is absconder in the offence of rape as alleged in the FIR. All the material facts have already been taken into consideration in the judgment passed in Bail Application No.1106/2015. Consequently, this Court is of the considered opinion that no change in circumstances or fresh grounds are made out for grant of bail particularly when the first bail application has already been dismissed on its own merit.

9. Keeping in view the gravity of offence and findings that there are no change in circumstances, this court is not inclined to grant anticipatory bail to the applicant.

10. 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.

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

AUGUST 10, 2016/aa

P.S.TEJI, J