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

+ **BAIL APPLN. 1622/2016**

GOPAL JHA

..... Petitioner

Represented by: Mr. Ehtesham Hashmi with Mr.
Prakash Chandra, Advs,

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Represented by: Mr. Ravi Nayak, APP with
W/SI Rajesh and SI Ved
Parkash, PS North Avenue.
Mr. Sugriva Dubey, Adv. for
complainant.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

15.09.2016

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1. By the present petition, the petitioner seeks anticipatory bail in case FIR No.7/2016 under Sections 498A/406/354/376/34 IPC registered at PS North Avenue.
2. In the FIR the allegations of the complainant were that her marriage was solemnized with Sujit Kumar Jha on 10th June, 2011 at District Sitamarhi, Bihar. After the marriage, the father of Sujit Kumar Jha i.e. Jugal Kishore Jha demanded ₹7 lakhs which her father transferred to the account of Jugal Kishore. Further in the marriage, as a gift furniture set, jewellery articles and motorcycle were presented. Sujit Kumar Jha was an officer in the Air Force however he started troubling her after 2-4 days of marriage and stated that he got married to her only to show off and that his girl friend

was better and richer than the complainant. He performed the marriage only due to his father and brother in law and that she has to make physical relations with his brother in law. It is alleged that he was frequently beating her. She was taken to village on account of Chat Pooja in October whereafter her husband left her at the house of his brother in law at Sitamarhi where his sister was not residing and various people used to come. Her father in law and brother in law started harassing her which acts she recorded in the memory of her mobile phone which she transferred to her father. However that mobile phone was snatched by Sujit Kumar Jha and broken. It is also alleged that the petitioner showed his willingness to marry the complainant and that he would get married Sujit Jha to one Lovely. On 17th February, 2015 on the occasion of Shivratri, Sujit Jha demanded ₹10 lakhs from her parents to construct house at Muzzafarpur and in case money was not given it was threatened that the complainant and her daughter would be killed. It is further alleged that Sujit Kumar harassed her and also threatened her that in case she made any complaint with reference to the petitioner, she and her children would be abducted. Thus, she sought action against her husband and his family members.

3. This complaint on the basis of which FIR No.7/2016 was lodged was filed by the complainant at CAW Cell on 23rd March, 2015. Prior thereto on 24th February, 2015 since Sujit Jha, the husband of the complainant disappeared she lodged a missing report vide DD No.21A at PS Kalkaji and on 25th February, 2015 she intimated about missing of her husband to her father in law at Bihar. As noted above, in the complainant filed on 23rd March, 2015 and till 16th January, 2016 when the FIR was registered under Sections 498A/406/354/34 IPC there was no allegation of rape against the

petitioner and the only allegation was of molestation. After the FIR, statement of prosecutrix was recorded under Section 161 Cr.PC. on 5th April, 2016 when she alleged one incident of rape against the petitioner. Pursuant thereto statement under Section 164 Cr.PC was recorded on 11th May, 2016 when she alleged 2-3 incidents of rape against the petitioner. The complainant also filed a complaint under the Protection of Women from Domestic Violence Act wherein she reiterated her allegations however para 17 of the complaint notes that the complainant was kicked out of matrimonial home by her husband on 14th March, 2015 in three wearing clothes and since then she was residing with her parents with minor children whereas the fact of the matter is that on 23rd February, 2015 itself the complainant lodged a missing report of her husband at PS Kalkaji and it is not disputed that till date whereabouts of complainant's husband are not known despite a habeas corpus petition having been filed by father of Sujit Kumar.

4. It is thus apparent from the facts noted above that there is a gradual improvement in the case of the complainant. Considering the facts that in the complaint filed with CAW Cell on 23rd March, 2015 there is no allegation of rape which was for the first time introduced after more than 1 year of filing of the complaint, 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 ₹50000/- with two sureties of the like amount subject to satisfaction of Arresting Officer/SHO concerned and further subject to the condition that the petitioner will join the investigation as and when directed by the investigating officer and will not leave the country without prior permission

of Court concerned.

5. Petition is disposed of.

6. Order dasti.

SEPTEMBER 15, 2016

‘vkm’

MUKTA GUPTA, J.