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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2045/2016**
MOHIT SHARMA Petitioner
Through: Mr. S.C. Singhal, Advocate

versus

COMMISSIONER OF POLICE Respondent
Through: Ms. Kusum Dhalla, APP with Ms.
Sunita Kumari, WSI, Police
Station: Delhi Cantt.
Ms. Poonam Gaur, Advocate for the
Complainant with complainant in
person

CORAM:
HON'BLE MR. JUSTICE I.S. MEHTA

ORDER
% **04.10.2016**

CrI.M.A.15589/2016

Allowed, subject to all just exceptions.

The application stands disposed of.

Bail Appn. No.2045/2016

The petitioner seeks bail under Section 439 Cr. PC in FIR No.276/2016 under Section 376 IPC registered at PS:Delhi Cantt., Delhi.

Learned counsel for the petitioner has submitted that the petitioner is an innocent person and has no nexus with the FIR No.0276/2016, dated 21st August, 2016, registered under Section 376 IPC. Learned counsel for the petitioner has further submitted that there was no physical relationship with

the complainant and the petitioner has never promised to marry her and the allegation alleged is baseless. Learned counsel for the petitioner has further submitted that the complainant has levelled false allegations and succeeded in registration of the aforesaid FIR. Consequently, the petitioner was arrested on 22.8.2016. Learned counsel for the petitioner has further submitted that no fruitful purpose will be served if the petitioner is kept in judicial custody for further period and that the petitioner is a law-abiding citizen and ready to furnish a surety bond and any other condition imposed by this Court.

On the other hand, the complainant is present along with the learned APP, the IO and her counsel, who opposes the contention of learned counsel for the petitioner and has submitted that the petitioner was having friendship with the complainant and on the allurements of marriage, the petitioner succeeded in physical relationship with the complainant. However, the complainant was a minor at the point of the incident and has further submitted that the petitioner had given a statement under Section 164 Cr. PC to this effect and opposes the bail application.

It is apparent that the complainant as well as the petitioner both are minors during the relevant period, as alleged above.

The allegation of the complainant is that, during the relevant period, there was a friendship and due to that friendship, an allurements was given and the present petitioner succeeded to establish the physical relationship and the complainant was subjected to rape. But, she could not satisfactorily explain why she could not file a complaint on the date of the alleged sexual assault on her person. The subsequent allegation of committing the rape by not lodging the complaint at a later stage amounts to the consent which goes

in favour of the petitioner.

In the instant bail application, the petitioner is in judicial custody since 22.8.2016 and no fruitful purpose will be served if he is kept in judicial custody for the further period.

Looking into the above facts and circumstances, i.e., both the petitioner and the complainant are major, I admit the petitioner on bail, on his furnishing a personal bond in the sum of Rs.25,000/-, with one surety of the like amount, to the satisfaction of the concerned Metropolitan Magistrate, with the condition that - (i) the petitioner shall not leave India without prior permission of the court below and (ii) the petitioner shall not tamper the prosecution evidence.

The bail application is disposed of.

Dasti.

I.S.MEHTA, J

OCTOBER 04, 2016

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