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

+ **BAIL APPLN. 2084/2016**

APPU KUMAR GUPTA

..... Petitioner

Through: Mr.Indresh Kumar and Mr.Akhilesh
Kumar, Advocates.

versus

STATE

..... Respondent

Through: Mr.Kewal Singh Ahuja, APP for State
with W/SI Savita, P.S. Ranhola,
Delhi.

CORAM:

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

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18.10.2016

Crl.M.A.No.15901/2016

Exemption granted, subject to all just exceptions.

Application stands disposed of.

BAIL APPLN. 2084/2016

This is an application under Section 439 Cr.P.C. filed on behalf of the petitioner Appu Kumar Gupta seeking grant of bail in case FIR No.853/2015, under Section 376/506 IPC, registered at Police Station Ranhola, Delhi.

Learned counsel for the petitioner submits that the petitioner is an innocent person having no nexus with the allegations made in the FIR No.853/2015. He further submits that the petitioner is a law abiding citizen and the allegations as alleged in the FIR are false and baseless wherein the victim/prosecutrix has stated that she was residing on the ground floor of

House No.86A, Nangli Extension, Near Bajrang Property, Baprola, Ranhola, Delhi and the petitioner/accused is the owner of the said house. Counsel further submits that the allegations levelled against the petitioner are evident from her statement recorded before the Court below on 17th May, 2016. It is further submitted on behalf of the petitioner that the victim is a major and if at all any incident as alleged in the FIR had taken place, it was with the consent of the victim/prosecutrix. Counsel further submits that the statement of the victim does not inspire confidence and, therefore, no useful purpose would be served if the petitioner is kept in judicial custody for an indefinite period, as the petitioner is in J/C from 17.10.2015 and prays that the petitioner may be released on bail in the above case.

Status report has been filed by the State. Learned APP for the State, on the other hand, vehemently opposes the grant of bail to the petitioner. Learned APP has pointed out that the statement of the victim has been recorded before the Court below and the CFSL report also supports the version of the victim recorded under Section 164 Cr.P.C. and also supports the version of the victim recorded in her examination-in-chief.

Heard the learned counsel for the parties.

The prosecution does not deny the fact that the petitioner is the owner of the house in question and that the victim was residing on the ground floor of the said house along with her family members.

Without commenting on the merits of the case, the victim has admitted during her examination as under:

“..... It is correct that the sexual relations were maintained by the accused with me with my consent and so I did not raise any alarm. It is correct that I lodged the present case under pressure as my family had found about my relations with the accused”.

Aforesaid such admission on the part of the victim entitles the petitioner one of the grounds to grant bail.

Hence, considering the facts and circumstances and the fact that the petitioner and the victim both are major;

the petitioner is in judicial custody since 17.10.2015;

statement of the victim has been recorded before the Court below and the examination and re-examination are also complete,

I admit the petitioner on bail, on his furnishing bail bond in the sum of Rs.20,000/- with one surety of the like amount, to the satisfaction of the concerned Court, subject to the condition that

the petitioner shall not leave the country without the permission of the Trial Court and shall not tamper with the prosecution evidence in any manner.

The petitioner also shall not try to contact with the victim or her family members and influence any other witnesses.

It is clarified that the observations made in this order shall not affect the merits of the case at the time of final arguments in the matter.

The bail application is disposed of in the above terms.

Copy of this order be given *dasti* to counsel for the petitioner, as prayed.

I.S.MEHTA, J

OCTOBER 18, 2016

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