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

+ BAIL APPLN. 2316/2016 & CrI.M.A. No.17679/2016

IQBAL QURESHI Petitioner
Through Mr.Yogesh Gaur, Adv.

versus

STATE Respondent
Through Mr.Panna Lal Sharma, APP for the
State with WSI Santosh, PS Kalyan
Puri.

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

ORDER

% **15.11.2016**

1. The present bail application has been filed under Section 439 of the Code of Criminal Procedure, 1973 in a case arising out of FIR No.309/2016 registered under Sections 376/323 of the Indian Penal Code at Police Station Kalyanpuri, Delhi.

2. A thumbnail sketch of the facts of the case emerging from the record is that the complainant and the accused became friends on Facebook, which is a social networking site, and met together several times. However, on 16th July, 2016 a complaint was lodged by the complainant against the accused-petitioner herein, alleging that on 25th June, 2016, the accused made a phone call to the complainant and asked her to meet him at main market, Malviya Nagar, New Delhi. It is alleged that when the complainant reached there, the accused took

her to some place at Neb Sarai in his car and by force raped her. As per the complaint, the accused thereafter gave her beating and threatened her not to disclose the incident to any person. On 16th July, 2016, the complainant was medically examined at Lal Bahadur Shastri Hospital and her statement was recorded in which she reiterated allegations as were made in the FIR.

3. It is submitted by learned counsel for the appellant that it was complainant who voluntarily established physical relation with the petitioner and that the present complaint had been filed by the complainant as she was in depression due to her family circumstances and loss of job.

4. I have heard learned counsel for the parties at length and gone through the available records. After the complaint, the accused is in judicial custody since 26th July, 2016. The challan has been filed in the present case.

5. It has been observed by the Court of Sessions that the name of accused has figured in as many as twenty six FIRs other than the present FIR. The accused has been convicted in some cases while in others, he has been acquitted or discharged. Certain cases are still pending trial. It is clear from the record that most of the cases against the accused are registered under Sections 356/379/411/34 of the Indian Penal Code and the same is not disputed by learned counsel for the applicant.

6. In the present case, the charges have been framed. Apparently, even in this case, the affidavit of the complainant has been filed. It is strange that though the accused is behind bars, still affidavit of the

complainant has been filed.

7. In the background of this case and the allegations levelled including one being under Section 313 of the IPC i.e. causing miscarriage without woman's consent, I do not find this case a fit case for grant of concession of bail. In such a scenario, the procurement of the affidavit at this stage would also not help the case of the petitioner. The prosecution also does not give any ground for allowing the application of the petitioner.

The present bail application and Crl.M.A. No.17679/2016 are dismissed.

P.S.TEJI, J

NOVEMBER 15, 2016/aa

