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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of hearing and Order : December 01, 2016

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**BAIL APPLN. 2430/2016
TARUN KUMAR SHARMA**

..... Petitioner

Through: Mr. Tarun Kumar Bedi, Mr. Arjun
Singh Bhati, Mr. Sidharth Agarwal,
Advocates

versus

STATE

..... Respondent

Through: Mr. Ashish Datta, Additional Public
Prosecutor for the State with Sub-
Inspector Sandeep Rathi, Police
Station Ranhola, Delhi

**CORAM:
HON'BLE MR. JUSTICE P.S.TEJI
% ORDER**

P.S.TEJI, J. (Oral)

1. By this petition filed under Section 439 of Cr. P.C., read with Section 482 of Cr. P.C., the petitioner seeks bail in a case registered as FIR No. 780/2015 under Section 498-A/406/34 of Indian Penal Code, at Police Station Ranhola, Delhi.

2. The prosecution case is based on the complaint filed by Mrs.Renu Sharma before the CAW Cell and it is only by the recommendation of CAW Cell, the present FIR was registered against

the petitioner and his parents on 24.09.2015. Investigations carried out and statement of the complainant under Section 161 of Cr. P.C. was also recorded. The complainant also provided the relevant documents supporting the allegations leveled in the FIR. Petitioner had earlier applied for anticipatory bail thrice, but every time his application was rejected. Even proceedings under Section 82 of Cr. P.C. were initiated against him and ultimately on 13.07.2016, the petitioner was arrested. After arrest, the petitioner also filed bail application before the concerned magistrate, which was rejected. Thereafter, petitioner applied for regular bail before the learned Additional Sessions Judge, which was declined vide order dated 21.09.2016 while observing that filing of the chargesheet is not a change in circumstance. Further application for seeking regular bail was also rejected by the learned Additional Sessions Judge vide order dated 14.10.2016, while observing no change in circumstance. Petitioner's third application was also rejected vide order dated 22.10.2016. Hence, the petitioner is before this court.

3. There is an allegation of the complainant that the petitioner is involved in extra-marital affairs and out of which he also has a female child. It is further alleged that the petitioner is not living with the complainant at matrimonial home and does not provide any money to meet her day to day needs. Even the school authorities are not allowing her elder son to appear in exams due to non payment of fees.

4. Learned counsel for the petitioner contended that the petitioner

was married to the complainant in the year 1995 and no complaint of any nature was either against him or his parents and it is only on the behest of parents of the complainant with intention to grab the property of the old aged parents of the applicant, they have been falsely implicated in the case. It is further contended that the petitioner is in custody for the last about four and half months. Even the charge sheet dated 10.08.2016 in the case has been filed on 7.9.2016 and the petitioner is no more required for any interrogation or inquiry in the matter.

5. Apart from the above, it is further contended on behalf of the petitioner that there are old ailing parents (mother – 73 years and father – 78 years) and no one else than the petitioner is there to take care of them. Mother of the petitioner has been operated for cancer and also needs continuous care. It is further urged that there is no likelihood of the petitioner to interfere or tamper with any evidence or influencing the witnesses or the investigation in the matter. Therefore, no useful purpose would be served by keeping the petitioner in custody.

6. Mr. Ashish Datta, learned Additional Public Prosecutor for the State opposed the contentions raised on behalf of the petitioner and submitted that during investigation it is revealed that the petitioner has extra marital affair with a lady namely Mrs. Avantika and out of this affair, there is also a girl child namely Shubhangi. Besides this, the petitioner's three anticipatory applications were rejected and

proceedings under Section 82 Cr. P.C. were also initiated against him. It is only thereafter, he was arrested on 13.07.2016. On merits, it is also submitted on behalf of the State that during investigation it was revealed that the petitioner is also not paying any money and attention towards the complainant and two sons. More so, three applications seeking regular bail have already been rejected by the learned Additional Sessions Judge. At last, it is stated that while looking into the facts and circumstances of this case, the petitioner be not released on bail.

7. I have heard the submissions made on behalf of the petitioner as well as the learned Additional Public Prosecutor for the State and also gone through the material placed on record.

8. For granting bail to the accused person, the court has need not to go into the facts of the case. However, this court is of the considered opinion that while considering the prayer for grant of bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused and the Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant and unless there are peculiar and special facts and circumstances in a given case, the Court would not be justified in extending the benefit of bail to such a person.

9. In view of the aforesaid settled principles and considering the facts that the investigation in this case has been completed, charge sheet has been filed and so far as the allegations of extra marital affairs are concerned, the same is a matter of trial, upon which the Trial Court is already seized with the matter, which can be adjudged only after leading cogent evidence. So far as the prayer for grant of bail to the petitioner is concerned, this court observes that the petitioner has been charged with the offence punishable under Section 498-A/406 IPC and he is also behind bars for more than a period of four and half months, even charge sheet has been filed and the petitioner is no more required for any interrogation or inquiry. Therefore, in the facts and circumstances of this case, this court is inclined to grant bail to the petitioner – Tarun Kumar Sharma, subject to furnishing of his personal bond in the sum of Rs.20,000/- with two sureties of the like amount to the satisfaction of the Trial Court.

10. The petitioner is directed not to tamper with the evidence, not to influence the prosecution witnesses and shall not leave the country without prior permission of the Court concerned.

11. 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.

12. With aforesaid direction, the present bail application, filed by the petitioner stands disposed of.

P.S.TEJI, J

DECEMBER 01, 2016

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