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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of hearing and Order : December 05, 2016

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BAIL APPLN. 2418/2016

UMESH KUMAR

..... Petitioner

Through: Mr. Chirag Mudgal, Mr. Abhinav
Tyagi, Advocates

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. M.S. Oberoi, Additional Public
Prosecutor for the State, with Sub-
Inspector Dinesh, Police Station
Ranhola, Delhi.

CORAM:

HON'BLE MR. JUSTICE P.S. TEJI

ORDER

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05.12.2016

P.S. TEJI, J. (ORAL)

1. By this application filed under Section 438 of Cr. P.C., the petitioner seeks anticipatory bail in a case registered vide FIR No.0286/2016 under Section 354-D/509 of IPC and Section 12 of POCSO Act, at Police Station Ranhola, Delhi.

2. The present case is registered on the complaint of one Ajay Jaiswal, stating therein that the petitioner had molested and hurled filthy language to his daughter Jhanvi (aged 7 years).

3. The petitioner has applied for anticipatory bail which was rejected by learned Additional Sessions Judge, vide order dated 25.10.2016 and 10.11.2016. Learned counsel for the petitioner contended that the application for anticipatory bail was rejected by the learned Additional Sessions Judge without considering the report of the Investigating Officer dated 05.11.2016 to the effect that *“alleged Umesh and his father have been examined in the present case. But they have denied the allegations leveled upon them.”*

4. It is further contention of the petitioner that on a query from the learned Additional Sessions Judge the investigating officer has replied that there is no requirement of custodial interrogation of the present accused as he has joined the investigation, but still the anticipatory bail application of the petitioner was rejected and there is no such observation in the order dated 10.11.2016 passed by learned Additional Sessions Judge.

5. Sub-Inspector Dinesh, investigating officer of this case is present in court and informed this court that the petitioner has joined the investigation and he is not required for the purpose of custodial interrogation.

6. Mr. M.S. Oberoi, Learned Additional Public Prosecutor for the State submits that the petitioner is charged with the offence punishable under Section 354-D/509 of IPC and Section 12 of POCSO Act, and his two anticipatory bail applications have already been declined by the learned Additional Sessions Judge.

7. After hearing the submissions made on behalf of the petitioner as well as having gone through the contents of the petition and the impugned order, it is an admitted fact that the FIR of this case was registered on 12.04.2016, and the anticipatory bail applications of the petitioner were rejected by the court below vide order dated 25.10.2016 and 10.11.2016.

8. After careful scrutiny of the case and the facts and circumstances of the present case, this Court observes that the petitioner has joined the investigation and there is no averment made on behalf of the State that the petitioner is required for custodial interrogation or that the petitioner has tried to tamper with the evidence.

9. In view of the aforesaid facts and circumstances of the present case, petitioner is directed to join the investigation as and when directed by the investigating officer and in the event of arrest, the petitioner – Umesh Kumar be released on bail subject to his furnishing personal bond in the sum of Rs.10,000/- with two sureties of the like amount to the satisfaction of the Arresting Officer.

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 above order, it is made clear that anything observed in the present petition shall not have any bearing on

the merits of the case during trial.

12. With aforesaid directions, the present application stands disposed of.

Dasti.

P.S.TEJI, J

DECEMBER 05, 2016

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