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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2391/2016

SHELLY @ SHARE AFGAN

..... Petitioner

Through Mr.Rajiv Duggal, Adv.

versus

STATE (NCT OF DELHI)

..... Respondent

Through

Mr.M.S. Oberoi, APP with Insp.

Rajesh Dogra and PSI Meetu Yadav.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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06.12.2016

Arguments heard.

The present application under Section 438 read with Section 482 Cr.P.C. has been filed by the petitioner for the grant of anticipatory bail in FIR No.413/2016, under Section 376/506 IPC, Police Station Sunlight Colony.

As per FIR, the allegations levelled are that the prosecutrix met co-accused Akhil Raj and promised the prosecutrix with different jobs. On 03.10.2014, accused Akhil Raj called the prosecutrix to come at Ashram Chowk Petrol Pump from where the accused had taken the prosecutrix to his flat where a cold drink was offered to her. After consuming the same, the prosecutrix became unconscious and

on regaining consciousness, she found no clothes on her body and accused Akhil was sleeping with her without clothes. When prosecutrix asked accused Akhil about the same, he told that he liked her and could not stop himself and that he and petitioner/accused Shelly had made such a plan. When prosecutrix started weeping, accused Akhil promised to marry her. Thereafter also accused Akhil physically abused the prosecutrix on the pretext of marrying her. On 24.01.2015, accused Shelly tried to make relations with the prosecutrix and when she objected, accused Shelly threatened her that he had prepared a video and that he would make it viral in case she objected. When prosecutrix complained to Akhil about the same, he said that accused Shelly had made it at that time but Akhil wanted to marry her so he would get the said video deleted. In between, the prosecutrix became pregnant 2-3 times. In July 2016, a phone call was received by prosecutrix from another co-accused Raj Kumar claiming to be an elder brother of accused Akhil. One day, co-accused Raj Kumar came to the office of the prosecutrix and took her to a nearby park where he started making indecent gestures towards the prosecutrix.

Upon hearing the learned counsel for the petitioner and learned APP for the State, this Court has gone through their submissions and material available on record.

Counsel for the petitioner has submitted that he has been falsely implicated in the present case as at that time, he was in his office at Gurgaon and the said fact is apparent from his attendance record. Even after the alleged incident, the petitioner had been in touch with the prosecutrix as she had been taking help of the petitioner to make her website. All the allegations levelled are false and the petitioner being a friend of co-accused Akhil, has been roped in the present case just to settle scores.

On the other hand, learned APP has argued that the allegations levelled in the present case are serious in nature. The prosecutrix had been physically abused by co-accused Akhil on the false pretext of marrying her. There are specific allegations against the petitioner/accused that he spiked the drink with sedatives, made an attempt to get physical with the prosecutrix and threatened her to make the video of her with accused Akhil, viral.

The fact remains that statement of prosecutrix was recorded

under Section 164 Cr.P.C. in which she stated that on 03.10.2014, accused Akhil took her to his flat where accused/petitioner Shelly gave a cold drink laced with sedatives. After consuming the cold drink, she became unconscious and after regaining consciousness, she found herself without clothes and at that time accused Akhil was also sleeping next to her without clothes. Upon asking, accused Akhil told that he had made such a plan with accused Shelly and also promised to marry her. She further stated that accused Akhil made physical relations with her on the promise of marrying her thereafter also. On 24.01.2015, accused Shelly touched her inappropriately and forcibly tried to get physical with her. When prosecutrix slapped accused Shelly, he threatened her to get physical with him else he would viral the video of prosecutrix which was taken at the time of accused Akhil getting physical with the prosecutrix. He also told that he had made the said video on being asked by co-accused Akhil. Thereafter, another co-accused Raj Kumar, friend of accused Akhil, met the prosecutrix and also touched her inappropriately. She also stated in her statement that she was threatened by accused Akhil to remain silent else the said video would be made viral and her family,

defamed.

As per the allegations contained in the FIR and the statement made by the prosecutrix on oath under Section 164 Cr.P.C., there are specific allegations against the petitioner/accused Shelly that he spiked the cold drink of the prosecutrix on 03.10.2014 due to which she became unconscious and when she regained consciousness, she found herself without clothes and accused Akhil was also lying without any clothes by her side. There are also specific allegations against accused Shelly that on 24.01.2015, he forcibly tried to get physical with her and also threatened to malign her reputation by showing the video containing accused Akhil getting physical with her. Contentions raised by the petitioner with regard to his false implication in the instant case are his defence and no comment on the same can be made at this stage as the same are matter of trial and can be answered only after adducing evidence by the parties.

Keeping in view the seriousness of the allegations and the role attributed to the petitioner, this Court is of the considered opinion that this is not a fit case to grant anticipatory bail to the petitioner. Application is accordingly dismissed.

Before parting with the above order, it is made clear that anything observed in the present bail application shall not have any bearing on the merits of the case during trial.

With the aforesaid directions, the present bail application is disposed of.

P.S.TEJI, J

DECEMBER 06, 2016
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