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

+ **BAIL APPLN. 2520/2016**

MUKESH

..... Petitioner

Through: Mr. Pradeep Rana, Advocate

versus

THE STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Mr. Mukesh Kumar, APP with SI
Pinki Rana, PS New Ashok Nagar

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

09.12.2016

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The status report tendered in court is taken on record. The petitioner has preferred the present bail application under Section 439 Cr PC to seek regular bail in case FIR No.430/2016 under Section 376/377/323/342/34 IPC and Section 6 of POCSO Act at PS New Ashok Nagar. The petitioner is in custody since 27.07.2016. The charge sheet already stands filed in the case.

The case of the complainant/ prosecutrix against the petitioner is that the prosecutrix was working as a receptionist in the office of the petitioner. The petitioner's wife was also working in the said office. According to the prosecutrix, the petitioner, on the pretext of divorcing his wife and marrying the prosecutrix, established physical relations with her. She alleged that he

also committed unnatural sex upon her. Since the petitioner did not fulfil his promise, the aforesaid FIR came to be registered against the petitioner on 27.07.2016.

Learned counsel for the petitioner points out that the services of the complainant were terminated. She came to the residence of the petitioner and on account of her creating a ruckus, the wife of the petitioner called the police on number 100. The petitioner, his wife and the complainant were taken to PS Kalyanpuri, where the prosecutrix gave her statement that she has received her outstanding salary for three months and that she would not visit the residence of the petitioner or call him up. She also stated that she is 18 years of age. At that stage, there was no whisper of any offence against the accused.

Learned counsel points out that only subsequently, on the same day, she lodged her complaint at PS New Ashok Nagar and out of which the FIR in question came to be registered. Learned counsel points that the medical examination of the prosecutrix does not reflect upon the alleged injury suffered by her on her head as result of the same being banged on the wall by the petitioner's wife by holding her hair.

It is further pointed out that according to the prosecutrix, the date when sexual relation was established between the petitioner and the prosecutrix was 07.07.2016, whereas the FIR came to be registered on 27.07.2016 i.e. after about 20 days. It is also pointed out that the services of the complainant/ prosecutrix have been terminated about three months prior thereto.

Learned counsel for the petitioner has also referred to the statement of the prosecutrix recorded under Section 164 Cr PC to point out that there are

significant improvements made by the prosecutrix while making the said statement. It is pointed out that, for the first time, she claimed that the petitioner had also taken her photographs in a compromising position with him, and threatened to upload the same online. It is pointed out that while making her statement, the prosecutrix again stated that she was 18 years of age.

Considering all the aforesaid submissions, and the fact that the charge sheet already stands filed, I am inclined to allow the present application subject to terms. Accordingly, the petitioner is directed to be released on bail upon his furnishing personal bond with one surety in the sum of Rs.20,000/- to the satisfaction of the Trial Court. This is further subject to the condition that he shall not try to contact or influence the prosecutrix or the other prosecution witnesses or tamper with the evidence.

Order dasti under the signatures of the Court Master.

VIPIN SANGHI, J

DECEMBER 09, 2016

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