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IN THE HIGH COURT OF DELHI AT NEW DELHI

DECIDED ON : 29th APRIL, 2016

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BAIL APPLN. 2110/2015

ANUJ AHUJA

..... Petitioner

Through : Mr.Y.P.Luckria, Advocate.

versus

GOVT. OF NCT OF DELHI

..... Respondent

Through : Ms.Nandia Rao, ASC.

Complainant in person.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

1. The petitioner – Anuj Ahuja seeks anticipatory bail under Section 438 Cr.P.C. in case FIR No.666/2015 registered under Section 376 IPC read with Sections 511; 323/506/34 IPC at PS Rajouri Garden. Status report is on record. Bail application is contested by the State and the complainant.

2. I have heard the learned counsel for the parties and have examined the record. At the outset, it may be mentioned that both the petitioner and the complainant are brother and sister. Various litigations are pending between the two. The complainant has filed proceedings under Section 12 of Domestic Violence Act.

3. By an order dated 23.12.2015, the petitioner was granted interim protection and was directed to join the investigation as and when

required. Status report reveals that the petitioner has since joined the investigation. Status report dated 20.11.2015 further reveals that both the parties are habitual in lodging complaints. Many civil and criminal cases are pending between them. A case of sexual assault vide FIR No.213/2015 dated 09.02.2015 under Sections 323/341/354A/34 IPC has also been registered against the petitioner and his sister on the statement of the prosecutrix. Another FIR No.566/2015 dated 27.04.2015 under Sections 323/341/506/34 IPC has been registered on the statement of the prosecutrix against her brother and sister.

4. In the instant FIR, the prosecutrix disclosed that on 16.05.2015 at about 09.45 a.m. when she was changing clothes the petitioner entered forcibly inside the room and started doing illicit activities with her. He put his hands inside her clothes; put his finger inside her vagina. When she objected, her father K.L.Ahuja came and started beating her. When she tried to escape, she was giving beatings by her father, brother and sister. She alleged that the petitioner had attempted to commit rape upon her whereas her sister and father helped him.

5. It is relevant to note that on the complaint of K.L.Ahuja, victim's father, a cross-case vide FIR No.667/2015 under Sections 324/341/506/34 IPC was registered against the prosecutrix. All of them were medically examined and nature of injuries found on their body was opined 'simple' in nature. In her response to the petition, the complainant informed that her sister Roma Ahuja used to force her into immoral / illicit practices; her father K.L.Ahuja and brother Anuj Ahuja (the present petitioner) were involved in it. She had made complaints to various law enforcing agencies. Complaint under Domestic Violence Act was filed by

her in 2010 and she has been granted protection vide order dated 28.06.2010. The Court directed the SHO to ensure 'peace' in the shared house-hold. The said order was never complied with by the police. On 26.04.2015, she was brutally beaten up and forced out of the shared house-hold by the petitioner and other accused persons. She was not permitted to enter the house despite presence of DCW personnel. She was made to stay at a shelter house in YWCA in Delhi for two days. On 28.04.2015, she appeared before Mahila Court and vide order dated 28.04.2015 was granted protection / residence (interim). She further alleged that her sister is a CEO of a law firm called Juris Global and has been involved in supplying women to influence and highly profile people. Her father, sister and brother have illicit relationship. They all force her to be a part of it.

6. On merits, she stated that the petitioner has already been declared Proclaimed Offender on 16.11.2015 by the Trial Court. He did not join the investigation. She was not permitted to enter the shared house. Intention of the petitioner and accused persons is to deprive her of her share / right in the property. Contempt proceedings have been initiated for violation of the orders.

7. It is pertinent to note co-accused K.L.Ahuja and Roma Ahuja have already granted anticipatory bail by this Court vide order dated 11.01.2015 in Bail Appln. 1136/2015.

8. Allegations against the present petitioner of course at first instance seem to be very grave and serious. However, considering the background of the case where the parties are at loggers-head and various civil and criminal proceedings are pending between the two, the allegations cannot be taken on its face value at this stage. The petitioner has placed on

record the PCR calls made by the petitioner from her mobile No.901331822 at 10.25.30 hours, 10.47.50 hours and 11.17.35 hours soon after the occurrence. She did not level any allegations of attempt to rape by her brother in these calls. The calls merely pertain to the incident of 'quarrel'. Subsequently, in her complaint, the petitioner leveled all these allegations. She declined internal medical examination. The injuries found on her body were found 'simple' in nature. She did not explain the injuries suffered by the petitioner and his father. The petitioner has further placed on record report dated 02.05.2015 (Annexure 'C') given at the Police Post MIG Flats, Rajouri Garden, lodged by Ahilya Ahuja - her mother when she was allegedly threatened in a quarrel with her. DD No. 32 (Annexure 'D') was lodged on 04.07.2014 informing that the complainant had threatened to implicate them in a false rape case or attempt to rape case. It is informed that on 04.07.2014, the complainant had entered the house after a gap of three and a half years.

9. Record reveals that the petitioner was availing legal remedies to get anticipatory bail. However, vide order dated 16.06.2015 the application was dismissed. The petitioner filed the instant petition before this Court on 05.10.2015. He was declared Proclaimed Offender subsequent to that on 16.11.2015. During the pendency of this petition, he was granted interim protection by this Court on 23.12.2015. It cannot be said that the petitioner was deliberately absconding.

10. Considering the peculiar facts and circumstances of the case, the petitioner is granted anticipatory bail and in the event of arrest, he be released on furnishing personal bond in the sum of ₹50,000/- with one surety in the like amount to the satisfaction of the SHO/Investigating officer. He

shall, however, join the investigation as and when required; shall not contact the prosecutrix, and shall not criminally intimidate her in any manner whatsoever.

11. The bail application stands disposed of.

12. Observations in the order shall have no impact on merits of the case.

(S.P.GARG)
JUDGE

APRIL 29, 2016 / *tr*

