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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ BAIL APPLN. 2695/2015
SANJIV MIDHA

..... Petitioner

Through Mr R.N. Sharma, Adv.
versus

STATE

..... Respondent

Through Mr Ashok Kumar Garg, Additional Public
Prosecutor for the State alongwith Sub
Inspector Bhawani Shankar Police Station
Paschim Vihar, Delhi
Mr Shaad Anwar, Adv. for complainant

CORAM:
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% 04.03.2016

Apprehending his arrest, this application under Section 438 of Cr.PC has been moved by the petitioner for grant of anticipatory bail in case FIR No.619/2015 under Sections 354B/506/34 IPC registered at Police Station Paschim Vihar, Delhi.

The FIR in the instant case was registered on the basis of a complaint made by the complainant alleging therein that on 20.08.2015, she alongwith her son and daughter-in-law were going to Himachal Pradesh. When they reached near West Metro Station, Paschim Vihar at about 7.15 pm, the petitioner alongwith one Ashwani @ Achhi came from the front side and asked her to withdraw the case. On her refusal, not only she but her daughter-in-law was also sexually assaulted by the accused persons.

It is submitted by counsel for the petitioner that there was an inter se dispute between the parties. The complainant had lodged an FIR against the petitioner under Section 308 IPC. She moved an application seeking cancellation of bail which was rejected on 20.08.2015. Feeling aggrieved, on the same day, she lodged this false FIR against the petitioner. Counsel further submits that the petitioner was a donor of kidney to his father which operation was conducted on 30.08.2015. Prior to that and on the relevant date, the petitioner was busy with his tests as it is a long-drawn procedure.

Learned Additional Public Prosecutor for the State, duly assisted by learned counsel for the complainant, opposes the application by submitting that the petitioner is the bad character of the area. Counsel for the complainant placed on record the press release for showing the

involvements of the petitioner in several cases. It is also submitted that the petitioner was also convicted in case FIR No.360/06 under Section 307 IPC dated 26.04.2006 Police Station Paschim Vihar, Delhi. It is submitted by learned Additional Public Prosecutor for the State there are photographs to show presence of the petitioner at the spot on the date of incident. Moreover, the petitioner alongwith co-accused was pressurizing the complainant to withdraw the earlier complaint made by her and on her refusal, this incident has taken place, as such the petitioner does not deserve to be granted anticipatory bail.

Needless to say the allegations against the petitioner are serious in nature. His antecedents are also not clean as, according to the status report, he is involved in four other cases besides this case. The plea of the petitioner that he was busy with his tests for donating kidney to his father on 20.08.2015 is at best the defence of the petitioner which is required to be proved by him during the course of trial of the case.

Keeping in view the totality of the facts and circumstances, it will not be appropriate to grant anticipatory bail to the petitioner.

The application is accordingly dismissed.

The interim protection granted to the petitioner vide order dated 11.12.2015 stands vacated.

SUNITA GUPTA, J

MARCH 04, 2016/*rd*