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

+ BAIL APPLN. 30/2017

ASHISH KHANNA

..... Petitioner

Through Mr.Anil Sharma, Mr.Arun Baali and
Mr.Jaskaran Singh, Advts.

versus

STATE GOVT OF NCT OF DELHI

..... Respondent

Through Mr.Panna Lal Sharma, APP with
W/SI Jyoti, PS Rajouri Garden.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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10.01.2017

Arguments heard.

The present application has been filed for the grant of anticipatory bail in FIR No.364/2015, under Section 376/328 IPC, Police Station Sarita Vihar/Rajouri Garden.

The FIR of the instant case was registered on the basis of statement made by the prosecutrix to the police. In his statement, prosecutrix has alleged that she was having a dispute with her husband Abhishek and she was residing separately with her husband since 2010. Her husband had obtained the divorce by playing fraud and had performed second marriage. The prosecutrix got her case re-opened in Aligarh. In that context, the prosecutrix met the accused Vishal @ Ashish Khanna in December 2010 at Mathura. Ashish Khanna started meeting the prosecutrix. On 14.02.2011, accused

called the prosecutrix in a hotel at Rajouri Garden. Something was administered in the water and on consuming the same, the prosecutrix became semi-conscious. In that condition, the accused became physical with her. Thereafter also, the accused after making the prosecutrix consume liquor and became physical with her in the hotels of Agra, Khurja, Ghaziabad, Bareilly etc. Earlier she had not lodged any complaint as she was assured by the accused that he would marry her after finishing her pending case. On 8/9.4.2014, accused became physical with the prosecutrix in a hotel at Agra and told that he made a video clip of the same. On 02.05.2015, accused threatened the prosecutrix in Agra Hotel Pantas that he would show the video to Abhishek and started blackmailing her. Accused forcibly committed rape upon the prosecutrix in Hotel Pantas.

Argument advanced by the counsel for the petitioner is that there is no basis in the allegations contained in the FIR. There is no evidence against the accused that he had committed rape upon the prosecutrix. The relations between the accused and prosecutrix were consensual and when their relations soured, they have been given the colour of rape.

Perusal of record shows that the FIR of the instant case was registered on 04.05.2015. Initially the FIR was registered in Police Station Sarita Vihar but subsequently it was transferred to Police Station Rajouri Garden on 09.06.2016. The address, identity and whereabouts of the accused were well known to the complainant as well as to the police. The Investigating Officer present in the Court has not made any attempt to arrest the accused or has taken any step

to put him behind the bars for the last about one and a half year. Even after the dismissal of the anticipatory bail application of the accused by the Court of Session, no action was taken by the Investigating Officer against the accused.

In the facts and circumstances, the accused/petitioner is granted anticipatory bail. It is hereby ordered that in the event of arrest of the petitioner, he shall be released on furnishing the personal bond in the sum of Rs.15,000/- with one surety in the like amount to the satisfaction of the arresting officer. The petitioner is directed to join the investigation as and when required; shall not tamper with the evidence; shall not influence the prosecution witnesses and shall not leave the country without prior permission of the court concerned.

Before parting with the order, this court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

The bail application is accordingly allowed.

P.S.TEJI, J

JANUARY 10, 2017
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