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

+ **BAIL APPLN. 42/2017**

HARPREET SINGH DHILLON

..... Petitioner

Through: Mr. Abhijat, Mr. Sudhir Vats,
Mr. Sanjay Aggarwal & Mr. Nikhil P.,
Advocates.

versus

NCT OF DELHI

..... Respondent

Through: Mr. Mukesh Kumar, APP along with
W/SI Madhvi Bisht, PS-Madhu
Vihar, for the State.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

28.02.2017

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Further status report has been placed on record.

Learned counsel have been heard.

The petitioner has preferred the present bail application under Section 438 Cr.P.C. to seek anticipatory bail in case FIR No.395/2016 registered under Section 376 IPC and Section 4 of the POCSO Act.

The submission of learned counsel for the petitioner is that the petitioner is a professional Artist/ Singer/ Actor. He is based in Canada.

The case of the prosecution is that the complainant/ prosecutrix had

responded to an advertisement put up by the petitioner on MH-1 T.V. Channel scouting for talented persons for engagement as Actors. The petitioner had then met the complainant at a restaurant in Nehru Place in October 2012. The complainant claims that the petitioner did not have a place of residence in Delhi, and on a couple of occasions, he was offered to stay as a guest with her at her house. The complainant claims that, at that point of time, she was 16 years of age and the petitioner had quietly entered her room in the night and established physical relations with her on the pretext of marrying her once she completes the age of 18 years. The prosecutrix also claims that she went to Mullapur, Ludhiana, where she was rejected as an Actress. The petitioner had then taken the prosecutrix and her mother to Mohali at his house and then dropped the complainant and her mother at Ludhiana. The prosecutrix claims that she was in regular touch with the petitioner/ accused. However, once the prosecutrix attained the age of majority, the petitioner refused taking her calls, which led to making of the complaint and registration of the FIR.

The submission of learned counsel for the petitioner is that the allegations contained in the FIR are vague inasmuch as no specific dates have been mentioned when the petitioner is alleged to have stayed at the residence of the complainant in the year 2012-13. He submits that even according to the complaint, the mother of the complainant was always present in the house. Though the prosecutrix claimed that she became pregnant, no medical reports with regard to her pregnancy, or DNA report of the foetus has been relied upon to show that the petitioner had impregnated the complainant. The FIR came to be registered only on 14.07.2016, even though the alleged incidents are of the year 2012-13. Learned counsel for

the petitioner submits that the petitioner has already joined the investigation and is ready & willing to join the same as and when called for even in future.

The application is opposed by Mr. Mukesh Kumar, the learned APP. He submits that the petitioner has not cooperated in the investigation. He has sought to place reliance on the answers given by the petitioner during his interrogation. According to Mr. Mukesh Kumar, the petitioner was evasive when he was initially examined, though, subsequently he has answered the questions.

Having heard learned counsel for the petitioner and the learned APP, I am of the view that the custodial interrogation of the petitioner is not necessary in the facts & circumstances of the case and it is not likely that he will be able to influence any of the witnesses in the present case, or tamper with the evidence. This is so because the allegations pertained to the year 2012-13, and the FIR itself has been registered only in July 2016. The alleged incidents have taken place at the residence of the prosecutrix in April 2013. Even according to the complainant, the mother of the complainant was present with her on all such occasions. As to whether, or not, the petitioner established any physical relations with the prosecutrix, and if so, whether the same was consensual or result of any promise made by the petitioner, are matters which can be elicited only during the trial.

Accordingly, the petition is allowed. In case of his arrest, the petitioner shall be entitled to be released on bail subject to:

- i) his furnishing personal bond with one surety in the sum of Rs.25,000/- to the satisfaction of the arresting officer/ IO;
- ii) he shall provide his mobile phone number to the IO, which shall be

kept in working condition at all times. The same shall not be changed without prior intimation to the IO;

- iii) he shall join the investigation as and when called for;
- iv) he shall not contact the complainant or any other witness in the case and shall not try to influence any witness or tamper with evidence.

FEBRUARY 28, 2017
B.S. Rohella

VIPIN SANGHI, J