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

+ **BAIL APPLN. 86/2017**

MONU @ NISHANT Petitioner

Through: **Mr.Vivek Sharma, Adv.**

versus

THE STATE Respondent

Through: **Mr.Ashish Dutta, APP.**
SI Shivani, P.S.Jyoti Nagar.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **27.04.2017**

The petitioner seeks bail in anticipation of his arrest in connection with FIR No.485/2016 dated 19.11.2016 (P.S.Jyoti Nagar) under Sections 376/380 and 506 of the IPC.

The facts stated in the first information report are bizarre.

The petitioner is stated to be the cousin of the husband of the informant and has been alleged to have pilfered some cash and jewellery from the house of the complainant, while the complainant was in the washroom. When this theft was detected, it is alleged, the petitioner told the complainant that money would be returned only on the condition that the complainant shared bed with him. The complainant thereafter submits that for the fear of her husband, she agreed and on several occasions the petitioner committed rape on her.

Learned counsel for the petitioner submits that the allegations in the FIR do not inspire confidence. There was no reason for the complainant to have agreed to the suggestion of the petitioner when the petitioner only was at fault and that he had admitted of having committed theft in the house of the complainant.

In a situation of this kind, the petitioner, it has been submitted would not have been allowed to come out of the house of the complainant.

However, in consideration of the fact that the petitioner as well as the complainant are related to each other, an attempt was made at settling the dispute. The petitioner is said to have promised to return the jewellery and the cash amount which has not yet been returned.

Be that as it may, the allegation of Section 376, which is the only serious offence alleged in the FIR, does not appear to have been made out from the facts of the case. The petitioner, during the period when he was enjoying interim protection, has joined investigation, which fact has been certified to be true by the counsel for the State on instructions from the IO of the case.

Considering the fact that there is a family dispute, though with the allegation of rape against the complainant, and that the petitioner has been cooperating with the investigation, there does not appear to be any necessity of keeping this bail application pending.

The petitioner in the event of his arrest shall be released on bail on his furnishing bond in the sum of Rs.25,000/- with two sureties of like amount to the satisfaction of the Arresting Officer/SHO. One of the sureties shall be a close relative of the petitioner.

This Court, while confirming the anticipatory bail of the petitioner has taken into account the fact that other members of the family of the petitioner who also were made accused, have been granted anticipatory bail by various Courts.

Application is allowed.

Order dasti.

ASHUTOSH KUMAR, J

APRIL 27, 2017

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