

§-3 & 4

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

+ BAIL APPLN. 372/2017

SHAMSUDDIN

..... Petitioner

Through: Mr. W.R.Khan, Advocate

versus

STATE

..... Respondent

Through: Mr. Akshai Malik, APP with SI Vineeta Prasad, PS Subhash Place

+ BAIL APPLN. 379/2017

MOHD IRSHAD

..... Petitioner

Through: Mr. W.R.Khan, Advocate

versus

STATE

..... Respondent

Through: Mr. Akshai Malik, APP with SI Vineeta Prasad, PS Subhash Place

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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22.05.2017

The petitioner Shamsuddin is the elder brother of the husband of the first informant (*jeth*) while the other petitioner, Mohd. Irshad, is the husband of the sister of the husband of the first informant (*nandoi*). In the FIR lodged on 24.03.2016 vide no.260/16 of police station Subhash place, allegations were made for offence under Section 498A, 34 IPC. The petitioners admittedly had separate

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residences from that of the husband of the first informant. She came with a fresh complaint on 16.01.2017, almost ten months after lodging the FIR and thereafter made a statement under Section 164 Cr. PC on 23.01.2017 wherein she made allegations against the petitioners about they having subjected her to forcible sexual intercourse including against the nature thereby attracting offences under Sections 376 / 377 IPC.

Having regard to the fact that the allegations were not made in the FIR but have come up after a long gap with no clear explanation coming to the fore till date for the omission to so allege in the first instance, the petitioners having joined investigation in terms of the previous orders on these petitions, it is a fit case where the petitioners deserve due protection. Therefore, the petitions are allowed. It is directed that in the event of they being arrested in case FIR No.260/2016 under Sections 498A/406/34 IPC of police station Subhash Place, the petitioners Shamsuddin and Mohd. Irshad shall be released on bail on they furnishing personal bonds in the sum of Rs.20,000/- with one surety each in like amount to the satisfaction of the arresting officer subject to the conditions that they shall continue cooperating with the investigation and join the same as and when called upon to do so and shall not come in contact with or try to influence any of the witnesses connected to the case.

It is made clear that this order will inure only till the date of first appearance of the petitioners in the event of a charge-sheet being filed on conclusion of the investigation and process being issued

against them by the court of cognizance.

Dasti.


R.K. GAUBA, J

MAY 22, 2017

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