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

+ **BAIL APPLN. 377/2017**

NIKIL DALAL

..... Petitioner

Through: Mr.Vedant, Adv.

versus

STATE(NCT OF DELHI)

..... Respondent

Through: Mr.Ashish Dutta, APP.

Mr.Narendra Kumar, Adv. for the
complainant.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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28.04.2017

The petitioner seeks bail in connection with FIR No.478/2016 dated 22.05.2016 instituted for offence under Sections 376 and 506 IPC.

The first information report discloses that the petitioner came in contact with the prosecutrix as he worked in an office which was situated near to the place of work of the prosecutrix. On one occasion, it has been stated in the FIR, the petitioner fought with somebody who was trying to trouble the prosecutrix and in the process he was assaulted and injured. He had to be hospitalized, when the prosecutrix is said to have visited him in the hospital. The friendship between the petitioner and the prosecutrix developed thereafter and they started living in each other's company.

For some happening in the life of petitioner, he suffered depression and to cheer him up, his friends organised a party. The prosecutrix alleges that on the day of the party, petitioner crossed all limits and subjected her to

sexual intercourse, without her consent.

A case under Section 376 was registered after some time of the aforesaid occurrence.

The 164 statement of the victim further reveals that when this aspect was made known to her parents, they got very angry and assaulted her. The parents of the prosecutrix only desired that the petitioner should not create any further problem for the prosecutrix. The tenor of the 164 statement raises a suspicion as to whether the act of rape complained of was consensual. What is more worrisome than the aforesaid narration is that the prosecutrix has alleged that her nude pictures were taken by the petitioner and the petitioner has been threatening of circulating such pictures.

Learned counsel for the petitioner submits that the mobile phone through which picture was allegedly taken has been seized by the police.

Mr.Ashish Dutta, learned Additional Public Prosecutor, on going through the investigation reports, submits that the mobile phone which was used for capturing nude pictures has been sent to FSL. The FSL report has not yet been received. The chargesheet in this case has already been filed in which there is nothing to suggest that there was any investigation regarding circulation of such nude pictures prior to the mobile phone being seized.

The petitioner is in custody since 04.08.2016.

Regard being had to the nature of accusation, the circumstances of the case and the period of custody, this Court is inclined to grant bail to the petitioner.

Let the petitioner be released on bail, on his furnishing a bond in the sum of Rs.25,000/- with two sureties of like amount to the satisfaction of the trial Court.

On his release, the petitioner shall not try to meet the prosecutrix or any person who would be interested in his prosecution/conviction. The petitioner shall participate in the trial and his absence from the trial for three consecutive dates without any plausible cause would render the privilege of bail to be cancelled. The petitioner shall not indulge in any unlawful activity and shall refrain from giving any threats to either the prosecutrix or the witnesses of the case.

Should the petitioner be found violating any one of these terms, it would be open for either the State or the prosecutrix to file an affidavit before the trial Court seeking cancellation of bail of the petitioner forthwith.

The application is disposed of.

Dasti.

ASHUTOSH KUMAR, J

APRIL 28, 2017

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