

\$~7

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

+ BAIL APPLN. 544/2017

ANIL KUMAR

..... Petitioner

Through Mr.A.K. Mishra and Mr.Kishan
Singh, Advs.

versus

STATE

..... Respondent

Through Mr.M.S. Oberoi, APP wit Insp.Rajni,
PS Khyala.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

% **27.03.2017**

Crl.M.A. 5105/2017 (Exemption)

Application is allowed subject to just exceptions.

Bail Appln. 544/2017

Arguments heard.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.457/2016, under Sections 376/506 IPC, Police Station Khyala.

The FIR of the present case was registered on the complaint made by the prosecutrix to the effect that since 2012, she was in a relationship with a boy, namely, accused Anil Kumar who promised the complainant of marriage. They had been meeting each other on a regular basis. When there was nobody in the house of the accused, he used to call the prosecutrix in his house and have physical relation

with the prosecutrix on a repeated basis due to which she became pregnant. Each time the prosecutrix became pregnant, accused terminated the pregnancy by giving her certain pills. In 2013, accused took the prosecutrix to Haridwar where again he established physical relations with the prosecutrix. When prosecutrix informed him that she was pregnant, accused brought some pills due to which her pregnancy terminated. Thereafter, accused used to take prosecutrix to a hotel near Radha Krishna Ashram Marg where he used to have sexual intercourse with the prosecutrix. Every time prosecutrix became pregnant, accused used to bring certain pills and every time pregnancy was terminated against her wish. It was further alleged that the accused made several nude videos of the prosecutrix under the pretext of marriage out of which two videos were also with the prosecutrix. There were several such videos on the mobile phone of accused which he showed them to the prosecutrix. Thereafter, the prosecutrix came to know that the accused was about to get married with someone else. It was further alleged that whenever accused used to take the prosecutrix along with him, he used to give her cold drinks laced with some additive whence she did not know what happened to her. When prosecutrix asked the accused to marry her, he threatened the prosecutrix that he would set the video viral by uploading the same on Youtube.

On the basis of the complaint made by the prosecutrix, FIR of the present case was registered under Section 376/506 IPC. The accused was arrested on 16.11.2016.

Argument advanced by the counsel for the petitioner is that the

accused has been falsely implicated in the present case with the motive to extort money and usurp his property. The prosecutrix is a major girl aged about 25 years and the relations between her and accused were consensual. The prosecutrix had accompanied the accused to several places out of her own free will and continued in physical relation with him uptill 01.11.2016. It is further argued that all the videos were made with the consent of the prosecutrix and some videos were even sent to her mobile phone by the accused and there cannot be a ground that the same were prepared on the basis of false promise of marriage. During the course of arguments, it is further argued that there are several call details and messages on record which could show that the prosecutrix had knowledge that the accused was getting married and despite that fact, she indulged in physical relations with him. He has further submitted that the record of the trial court be called to show such call details, messages and videos.

As per the allegations levelled, the prosecutrix has specifically stated that the accused had been promising her with marriage and on the said false pretext of marriage, he became physical with her. It is further alleged by the prosecutrix that the accused used to bring pills to terminate her pregnancy whenever she became pregnant. It is further alleged against the accused that he had made several nude videos of the prosecutrix on his mobile phone and when prosecutrix asked him to marry her, he threatened the prosecutrix that he would upload them on the Youtube and make them viral. As per the case of the prosecution, mobile phone of the accused containing the said

videos has been recovered from the accused and same has been sent to the Laboratory for obtaining opinion of the scientific expert.

Argument advanced by the counsel for the petitioner to call the record of the trial court is not acceptable. The question in the present matter is not the consent of the prosecutrix. There are specific allegations against the accused that he developed physical relation with the prosecutrix on the false pretext of marriage and the more serious act is that he prepared nude videos of the prosecutrix. It may be that the accused may marry some other girl of his choice but then the purpose and intention of preparing the said nude videos, keeping them on his phone and threatening the prosecutrix to make it public, is irrelevant and wrong. Such an act of the accused cannot be looked at lightly as he may not only malign the reputation of the prosecutrix but also ruin her future life. Keeping such a video may traumatise the prosecutrix for time to come and she may not come out of it in her entire future of uncertainty.

In view of the above mentioned facts and circumstances and the seriousness of allegations, this Court is not inclined to grant bail to the accused/petitioner.

Bail application is accordingly dismissed.

P.S.TEJI, J

MARCH 27, 2017
dd