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

+ BAIL APPLN. 500/2017

RAHUL SINGH

..... Petitioner

Through Mr.M.N. Dudeja, Mr.Anuj Chauhan
and Mr.Manoj Kohli, Advts.

versus

STATE

..... Respondent

Through Mr.Akshai Malik, APP with ACP
Sudhir Kumar (Sub-Division Khajuri
Khas), Insp. Sunil Kumar (SHO) and
SI Monika, PS Karawal Nagar.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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21.03.2017

Arguments heard.

The present application has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in FIR No.56/2017, under Section 376 IPC, Police Station Karawal Nagar.

As per FIR, the allegations levelled by the prosecutrix are that she was already married and had a daughter aged about 9 years. There were some differences between the prosecutrix and her husband and she started residing at her parental home. In 2012, the prosecutrix was working in Metro where she met the accused Rahul and thereafter she left her job. In the year 2013, she became friendly with accused. Accused Rahul proposed the prosecutrix and then she

informed about her matrimonial life and of her daughter on which accused said that he had no problem with it. Accused asked the prosecutrix to obtain divorce and then they would perform marriage. Both of them had been meeting each other. Thereafter, accused took the prosecutrix to Nainital. On 14.12.2013, they left Delhi and they first time got physical on the pretext of marriage and the same continued thereafter. Whenever they used to meet alone either in the house of prosecutrix or in the house of accused, accused used to get physical with the prosecutrix. Accused got the divorce case lodged against the husband of the prosecutrix. In the meantime, accused made the down payment for the vehicle from the credit card of the prosecutrix. Accused had also taken Rs.10,000/- number of times from the prosecutrix with the promise to return the same later on. In September, 2016, accused had taken Rs.50,000/- from the prosecutrix. When prosecutrix got the divorce decree, she asked the accused to marry her but he refused by saying neither he would marry her nor return the money. It was alleged that the accused maintained physical relations with the prosecutrix for the last three years on the false pretext of marriage.

On the basis of the complaint made by the prosecutrix, FIR of the instant case was registered.

Argument advanced by the learned counsel for the accused is that all the allegations levelled against him are false. During three years of courtship of the prosecutrix with the accused, she concealed her marital status and also about her daughter. It is further submitted that the accused was ready to marry the prosecutrix and for the same,

he had applied before the Office of Registrar of Marriage vide application dated 24.06.2016 but subsequently he had moved another application dated 25.07.2016 seeking cancellation of his previous application for marriage when he came to know that the prosecutrix was already married and the said fact was concealed by her. It is further submitted that the prosecutrix always claimed that she was virgin and it was the accused/petitioner who has really been cheated by the prosecutrix by concealing her marital status.

In support of the above contentions, petitioner has relied upon judgments in the case of ***Prashant Bharti v. State (NCT of Delhi)*** AIR 2013 SC 2753, ***Siddharam Satlingappa Mhetre v. State of Maharashtra and others*** AIR 2011 SC 312, ***Manoj Bajpai v. State of Delhi*** (W.P. (Crl.) 771/2014), ***Akshay Manoj Jaisinghani v. The State of Maharashtra*** (Bail Appln. No.2221/2016 decided by Bombay High Court on 09.01.2017), ***Swati Aggarwal v. The State & ors.*** (Crl.M.C. 305/2017, decided by this Court on 24.01.2017) and ***Jagdish Nautiyal v. State*** (Bail Appln. 1317/2012, decided by this Court on 29.11.2012).

On the other hand, learned APP for the State has opposed the bail application on the ground that the accused has committed rape upon the prosecutrix on the false promise of marriage. The accused had indulged in sexual relations with the prosecutrix for about three years. It is further submitted that the accused has taken money from the prosecutrix as well which is yet to be returned. But during the course of arguments, the learned APP has submitted that no section for cheating has been added in the present case against the accused

and recovery of money from him is not an issue.

It is apparent from the record that the accused has annexed the copy of application filed before the Registrar of Marriage which shows that he and prosecutrix had applied for solemnization of marriage claiming themselves to be unmarried. On the basis of said application, Public Notice dated 24.06.2016 was issued by the office of the Sub-Divisional Magistrate inviting objection from the public. The plea taken by the accused is that after filing an application for solemnization of marriage, he came to know that the prosecutrix was already married, therefore, he moved an application for cancellation of solemnization of marriage application. Copy of said application dated 25.07.2016 has been placed on record which shows that after filing the earlier application for solemnization of marriage, the accused came to know that the prosecutrix was already married to Ramesh Chand and case for divorce and for maintenance was pending in the Court. By way of this application dated 25.07.2016, the accused had requested the concerned authority to cancel his earlier application for solemnization of marriage.

In view of the above mentioned facts and circumstances, the bail application is allowed. It is hereby ordered that in the event of arrest of the accused/petitioner Rahul Singh, he shall be released on bail on furnishing the personal bond in the sum of Rs.20,000/- with one surety in the like amount to the satisfaction of the arresting officer. The accused is directed to join the investigation as and when required; he shall not tamper with the evidence and not to influence the prosecution witnesses. He is further directed not to leave the

country without prior permission of the court concerned.

Before parting with the order, this Court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

The application is accordingly disposed of.

P.S.TEJI, J

MARCH 21, 2017
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