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

+ **BAIL APPLN. 568/2017**

ARMAN KHAN

..... Petitioner

Through: Mr. Kirti Uppal, Sr. Advocate with
Mr. M. Taiyab Khan and Mr. Misbah Bin Tariq,
Advocates.

versus

THE STATE NCT OF DELHI

..... Respondent

Through: Mr. Ashish Duta, APP
S.I. Surender Singh, P.S. New Ashok Nagar.
Mr. Lokesh Kumar Mishra, Advocate for
complainant

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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15.05.2017

The petitioner seeks bail in connection with F.I.R.No.419/2016 dated 20.07.2016 instituted for the offence under Section 376 IPC at P.S. New Ashok Nagar.

The petitioner is in custody since 25.1.2017.

The complainant/prosecutrix has alleged that on 22.3.2009, the petitioner had visited her house and had expressed his desire to marry her. However, the petitioner is alleged to have remained at her home and the same night, he made physical relation with the complainant forcibly. The prosecutrix has stated in FIR that she was threatened of dire consequences in case she reported the matter to the police. Petitioner is also alleged to have promised the complainant of marrying her later. The complainant came to

know only later that the petitioner was already married.

From the records, it appears that the petitioner is said to have committed rape on her on several occasions, which were never reported to the police.

While opposing the prayer for bail, the learned counsel for the complainant/prosecutrix drew the attention of this Court to the F.I.R. No.507/16 which was instituted for the offence under Section 326A/506 and 34 IPC. The prosecutrix had in that FIR alleged that two persons with their heads and faces covered, had threatened the prosecutrix to withdraw the case and also threw acid on her. The aforesaid case was investigated by police but the accused could not be traced. The report regarding the investigation has also been submitted by the police. The petitioner has not been found to be involved in the aforesaid occurrence of threatening and throwing acid.

The learned counsel for the prosecutrix has stated that such report would be challenged before the court below and request would be made for further investigation in the matter. He further submits that the factum of throwing of acid has not been disbelieved by the investigating agency but only the wrongdoer could not be traced. The learned counsel for the prosecutrix has also argued that he would be providing clue to the police for reaching out to the offenders.

Mr.Ashish Dutta, learned APP submits that the charge sheet in this case has already been submitted.

Taking into account the facts, namely, the prosecutrix being earlier married to somebody else and therefore an experienced person, the successive act of rape not having been reported by the prosecutrix, other attending circumstances the case and the name of the petitioner not

transpiring in the investigation of the FIR No.507/2016, this Court is inclined to release the petitioner on bail.

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

It is made clear that the petitioner shall not threaten or make any attempt at tampering with the evidence. It is also needless to state that the petitioner shall participate in the trial and would refrain from taking any steps which would not be lawful or, would prevent to the prosecutrix from prosecuting her case. In case, the petitioner does so, it would be open for the prosecutrix or the State to seek cancellation of bail of the petitioner.

The SHO concerned would also ensure the safety of the prosecutrix, as she is the lone material witness in the case and it is the duty of the State to afford all protection to such witnesses.

The application is allowed with the aforesaid observations.

ASHUTOSH KUMAR, J

MAY 15, 2017

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