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

+ BAIL APPLN. 604/2017

SHAH MOHAMMAD

..... Petitioner

Through Mr.R.M. Tufail, Mr.Farooq
Chaudhary and Ms.Meenakshi Joshi,
Adv.

versus

STATE

..... Respondent

Through Mr.M.S. Oberoi, APP with SI
Nirmala Singh, PS Govindpuri.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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11.04.2017

Arguments heard.

The present application has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in FIR No.766/2016, under Sections 376/354/498A/406/506/509/34 IPC, Police Station Govind Puri.

The FIR of the instant case was registered against accused Shah Mohammad, Mohammad Raza @ Saddam, Naseem, Azmeen @ Nazneen and others on the basis of complaint made by the prosecutrix. In her complaint, the prosecutrix stated that her marriage was solemnized with accused Mohammad Raza on 18.03.2015. In the marriage, parents of the prosecutrix spent about Rs.16,06,000/- and gave articles. Husband and in-laws of the prosecutrix were not

happy with the money and jewellery given in the marriage. She had been forced to bring Rs.10 lakhs and Swift Car from her parents. On 19.03.2015, husband and in-laws of the prosecutrix asked her to hand over the jewellery to the parents-in-law which she gave to them. Money given in Kanyadaan was also given by her on asking. On 27.03.2015, parents-in-law, husband of the prosecutrix and accused Naseem demanded Rs.10 lakhs and one Swift Car from the father of the prosecutrix and when he refused, all the accused persons infuriated. Her mother-in-law pulled the prosecutrix with her hair, her husband gave her a slap, father-in-law and Naseem gave abuses to her and her father. Thereafter, the prosecutrix was repeatedly harassed. On 30.03.2015, all the accused persons again demanded Rs.10 lakhs and one Swift Car from the father of the prosecutrix and when he showed his inability, he was abused and compelled to give Rs.50,000/- cash. After counting the same, accused persons became angry; husband and mother-in-law of the prosecutrix gave her a slap. When prosecutrix demanded her jewellery and money etc., accused persons refused to hand over the same. On 02.04.2015, accused persons again demanded cash of Rs.10 lakhs and car at the parental house of the prosecutrix. After much persuasion, father of the prosecutrix gave Rs.2 lakhs to her mother-in-law in the presence of other accused persons but they insisted on Rs.10 lakhs. On 14.04.2015, husband of the prosecutrix committed sexual intercourse forcibly with her against her will and also committed unnatural act. He also took nude photographs and videography of the prosecutrix. When prosecutrix resisted, her husband told that he would make

money by selling her nude photos and videos. On 15.04.2015, parents-in-law and Naseem called the prosecutrix and threatened her either to bring Rs.10 lakhs and car from her father else her nude photos and videos would be uploaded on internet. Thereafter also the husband of the prosecutrix used to commit unnatural act with her and also used to click her nude pictures and videos which would be seen by her father-in-law and Naseem. She further stated that her father-in-law and Naseem used to come to her room and give her lecherous looks. On 20.04.2015 when prosecutrix was changing her clothes, accused Shah Mohammad and Naseem came inside her room. At that time she was not wearing anything but both the accused kept on staring her and they left only when she raised alarm. On 20.04.2015 again demand of Rs.10 lakhs and a car was made by the accused persons. On the same night, her husband again committed forcible sexual intercourse with her, clicked her nude pictures and videos and also committed unnatural act. On 28.06.2015, the prosecutrix was taken to another house at Noida and kept there where her father-in-law and Naseem used to come; consumed liquor and gave her lecherous looks and wrong gestures. On 30.06.2015, her father-in-law and Naseem came there and in the night, her father-in-law committed rape upon her. On the next day, the prosecutrix informed the incident to her husband and mother-in-law upon which she was given beatings and threatened to be killed. After sometime, the prosecutrix gave birth to a baby girl upon which her father-in-law said that when she will grow he would be physical with her also.

Argument advanced by the counsel for the petitioner/accused is

that the petitioner is father-in-law of the prosecutrix and all the allegations are false and baseless. The prosecutrix has already been divorced by the son of the petitioner-herein and with a view to malign the image and reputation of the petitioner and his family, false allegations have been levelled. It is further submitted that the present FIR has been lodged with the sole motive to blackmail the family of the petitioner.

On the other hand, learned APP for the State has submitted that the allegations levelled against the petitioner are serious in nature that he along with his other co-accused persons had been harassing and torturing the prosecutrix/complainant for or in connection with demand of dowry. There are allegations of commission of rape and showing wrong gestures by him to the prosecutrix. It is further submitted that Non Bailable Warrant was issued against the petitioner on 27.01.2017 and upon its non-execution, proceedings under Section 82 Cr.P.C. have been initiated against him.

From the perusal of record, it is apparent that the allegations levelled against the petitioner/accused are serious in nature. There are specific allegations of demand of dowry in the form of cash Rs.10 lakhs and a car against the petitioner and other co-accused persons and harassment meted out to the prosecutrix with regard to such dowry demands. There are also specific allegations of giving wrong gestures by the accused to the prosecutrix and also of lecherous looks. The prosecutrix has specifically stated that on 30.06.2015, petitioner/accused committed rape upon her. It has also been brought on record that the prosecutrix reiterated her allegations while making statement

under Section 164 Cr.P.C.

It is worthwhile to mention that the proceedings to declare the petitioner/accused proclaimed offender have already been initiated against him, but the petitioner has not mentioned this fact in his bail application. Non-mentioning of this fact amounts to concealment of material fact from the Court while applying for bail.

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

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 dismissed.

P.S.TEJI, J

APRIL 11, 2017
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