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

+ BAIL APPLN. 656/2017 & Crl.M. (Bail) No.661/2017

JAGDISH CHANDER Petitioner
Through Ms.Nitya Sharma, Adv. with
Mr.Manoj Kumar, Adv. & Mr.Rajat
Sharma, Adv.

versus

THE STATE Respondent
Through Mr. Kewal Singh Ahuja, APP for the
State.
Ms.Neeru Sharma, Adv. for
Complainant.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

% **19.04.2017**

Arguments heard.

The present application has been filed under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail in FIR No. 232/2017, under Section 328/376 IPC, Police Station Mangolpuri.

The facts as are emerging from the records are that a complaint was lodged by the complainant to the effect that in the year 2004, she married with one Dilip Jha and out of the said wedlock, two daughters were born. The complainant further stated that in the year 2000 she came in contact with the petitioner who taking advantage of the fact that he was not working, assured her that he would get her divorced from her husband. The complainant alleged that the petitioner started

visiting her house and in the year 2010, took her to his friend's house where he committed rape upon her after giving her something mixed in the cold drink. On the asking of the complainant as to why the petitioner did this, he promised to marry with her. The complainant in her complaint stated that she was taken to the court by the petitioner where divorce case was got filed and after a few days, the petitioner gave her a document which was in English language, and told her that she had been granted divorce. She further stated that her marriage was performed with the petitioner in 2010 subsequent to which she was harassed and beaten which made her to call at the Women Helpline and then she came to know that the document of divorce was forged one. In November 2015, the complainant gave birth to a male child after which the petitioner harassed her again.

On the basis of complaint made by the complainant, FIR of the instant case was registered. Statement of the complainant under Section 164 Cr.P.C. was registered.

Argument advanced by the counsel for the petitioner is that the entire allegations are false. It was the complainant who misrepresented to the petitioner that she was unmarried. They both started residing together in a live-in relationship for about one and a half year. Thereafter, they performed marriage in the year 2014 and they were blessed with a baby boy on 11.12.2015. Thereafter in October 2015, the petitioner came to know that the complainant was already married when her first husband came to their home to take her back. The petitioner kept the complainant with him as his wife but when she got the option to go back to her first husband, false

allegations of the instant case were levelled against the petitioner.

On the other hand, learned APP for the State has argued that there are specific allegations against the petitioner that firstly he became friendly with the complainant and then committed rape upon her after giving her some intoxicating substance. It is also alleged by the complainant that she was handed over a forged document by the petitioner to show that she obtained divorce from her first husband. The gravity of the offence does not call for the grant of bail to the petitioner.

From the perusal of record, it is apparent that the complainant herself has stated in her complaint that she and accused performed marriage and a male child was born out of the said wedlock. The allegations levelled against the petitioner are that he gave a forged document to the complainant that she got divorce from her first husband and then he performed marriage with the complainant.

The fact remains that no recovery is to be effected from the petitioner/accused. It is also an admitted fact that marriage between the petitioner and complainant was solemnized out of free will of the complainant and from the said wedlock, one male child was born.

In view of the above mentioned facts and circumstances, the application is allowed. It is hereby ordered that in the event of arrest of the petitioner/accused, he be released on bail on furnishing the personal bond in the sum of Rs.15,000/- with one surety in the like amount to the satisfaction of the arresting officer. The petitioner is directed to join the investigation as and when required. He is directed not to tamper with the evidence and 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.

Application CrI.M.B. 661/2017 is also disposed of.

P.S.TEJI, J

APRIL 19, 2017
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