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

+ CRL.M.C. 1425/2017 and Crl .M.A. 5888/2017 (stay)

MAYANK JAIN

..... Petitioner

Through: Mr. K.V.S. Gupta, Mr. N.K. Bhambri
and Ms. Sofia Bhambri, Advocates

versus

THE STATE NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Amit Chadha, APP with asi s. Devi
PS North Rohini
Mr. Dhruv Moshan and Ms. Ritu Sharma,
Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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19.05.2017

By order dated 14.03.2017 on the application, bail application no.230/2017 of the petitioner, the Additional Sessions Judge-03, North-west, Rohini admitted him to anticipatory bail, accepting the offer made on his behalf, as recorded, for deposit of fixed deposit receipt in the sum of Rs.40 Lakhs such amount being towards maintenance / alimony of the complainant (the second respondent herein) as well as that of Master Vivaan, minor child of the parties who is presently in the care and custody of the latter, with further condition of the applicant, in the event of he being arrested, being obliged to furnish personal bond in the sum of Rs.25,000/- with one surety in like amount to the satisfaction of the investigating officer / Station House Officer of PS Rohini, in the context of FIR 24/2017 of police station, North Rohini involving offences punishable under

Section 498A, 406, 377, 313, 34 IPC which is presently under investigation.

The petitioner's main grouse brought before this court through the petition at hand is that he had never offered to deposit any amount, not the least, the amount of Rs.40 Lakhs, the responsibility with which he has been burdened as one of the conditions of the anticipatory bail order. The argument is that such condition cannot be imposed by criminal court.

The matter was heard on the last date of hearing i.e. 12.04.2017. Questions were also raised at that stage as to non-return of *istridhan* articles. It was admitted on behalf of the petitioner that the issue that his readiness and willingness to pay or deposit such an amount as indicated above was never submitted or that it had been wrongly recorded by the Additional Sessions Judge was never raised before the said court. It was also fairly conceded that the order in question being conditional, grievance having been raised about such condition attached, it could not be availed of by the petitioner. The petitioner was directed to remain present in person today. Meanwhile, the respondents were called upon to file their responses which have since come on record.

Having heard the parties and their counsel, again at length, and having gone through the record, this court is of the opinion that it is not necessary to return a finding on the question of fact as to whether the petitioner through counsel had offered to make any deposit in anticipation of he being granted the bail order or not. Since the order of the sessions court shows this, the petitioner not being ready to abide by the terms of such an order, the proper course is to vacate the order

dated 14.03.2017 in entirety and to remit the matter arising out of bail application no. 230/2017 to the learned Additional Sessions Judge for fresh hearing and adjudication. Ordered accordingly.

The application for release on anticipatory bail (bail application no.230/2017) shall be taken up for hearing by the Additional Sessions Judge on 26.05.2017.

The petition is disposed of in above terms.

Dasti.

R.K.GAUBA, J

MAY 19, 2017

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