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IN THE HIGH COURT OF DELHI AT NEW DELHI

DECIDED ON : MARCH 24, 2017

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BAIL APPLN. 758/2015

KARAN MATHUR

..... Petitioner

Through : Mr.Rajneesh Vats, Advocate.

versus

STATE NCT OF DELHI

..... Respondent

Through : Ms.Manjeet Arya, APP with SI
Nitesh, PS Saket.
Ms.Anindita Pujari & Mr.Rovins
Verma, Advocates for the
complainant along with complainant
in person.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. The petitioner seeks anticipatory bail under Section 438 Cr.P.C. in Case FIR No.450/2015 under Sections 323/377/506 IPC registered at Police Station Malviya Nagar. Status report/Additional Status report are on record.
2. I have heard the learned counsel for the parties including the counsel for the complainant and have examined the file.
3. The petitioner's counsel urged that false and concocted allegations have been leveled by the victim in her written complaint to

humiliate the petitioner. No offence, as alleged in the complaint, has been made out; it is a marital discord. Soon after the marriage both the parties had gone to New Zealand for honeymoon; it lasted for twenty-one days; they returned to India on 3.1.2015. Despite all attempts to consummate the marriage, the petitioner could not do so. Victim's mother was apprised about it and her response was that she was aware of that perennial issue. On 3.1.2015, the complainant visited a gynaecologist; she advised her to meet a psychiatric and marriage counselor. The petitioner also visited the counselor. Counsel for the petitioner urged that on 27.02.2015 a settlement took place between the parties to return the various gifts. It was explicitly understood in their meetings on 27.02.2015 and 5.3.2015 that the marriage would be dissolved on amicable and mutual terms. On 18.03.2015, to save the marriage, the petitioner filed a petition for Restoration of Conjugal Rights before the Distt. Court at Lucknow.

4. Learned counsel for the petitioner further contended that subsequent motivated FIR No.1358/15 under Section 509 IPC, was based upon false facts and no such information was uploaded by the petitioner on the web-site.

5. Learned Additional Public Prosecutor, assisted by the complainant's counsel, urged that there are serious and grave allegations against the petitioner whereby during honeymoon, he established unnatural sex with the prosecutrix and inserted instruments/objects in her private parts. Not only that, the petitioner with the sole motive to harass the complainant and to pressurize her to withdraw the case, circulated her mobile number on porn websites. The prosecutrix started receiving calls

from several numbers and the callers used to indulge into cheap talks with her; she started getting obscene calls, messages and posts on Face Book.

6. Undisputedly, the marriage between the petitioner and the prosecutrix took place on 12.12.2014. On the very next day i.e.13.12.2014, they both went for their honeymoon to New Zealand and stayed there for about twenty-one days; to return to India on 3.1.2015.

7. In her complaint dated 9.3.2015, forming the basis of registration of the FIR No.450/2015, the victim gave detailed account as to how during her honeymoon, she was subjected to mental and physical torture. She was categorical to state that the petitioner established unnatural sex against her wishes forcibly; he also used instruments and objects while doing unnatural sex. She further alleged that the petitioner used to hit her; he tried to kill her. These allegations are very serious in nature as the victim was not expected to get this treatment on her honeymoon. There were no compelling reasons for the victim to level serious allegations against the petitioner, her husband, so soon after the marriage.

8. Soon after return to India on 6.1.2015, the victim had gone to a Fatima Clinic, at Malviya Nagar complaining “acute pain lower abdomen; difficulty in passing urine; pain while defecating and itching over anus”. The victim gave history of repeated anal intercourse. She visited her again on 5.2.2015. Merely because the marriage could not be consummated, there was no occasion for the petitioner to indulge in anal intercourse against the order of nature forcibly without victim’s consent. It is relevant to note that the victim was medically examined vide MLC 2775/15 on 9.3.2015. Alleged history recorded therein mentions ‘anal and oral intercourse by the accused on multiple occasions between 13.12.2014 to 26.12.2014’.

9. Subsequently, FIR No.1358/15 under Section 509 IPC was registered on 13.07.2015 against the petitioner. Allegedly, he started circulating victim's mobile number on porn websites. The prosecutrix started receiving phones from several numbers. Status report dated 11.3.2016 reveals that the prosecutrix had got the information from her colleague Abhishek regarding her number to have been posted on whatsapp group "Drunk, Smoke, Fuck and Sleep". After probe, it was revealed that, one Arun Kashyap was the creator of the said group. It was disclosed by him that the prosecutrix's number was posted on the group by a person named 'Yanki Jat', mobile No.9716292946. His name was ascertained as Kunal Narang. During interrogation, Kunal Narang accepted that the information 'Jugaad@5Ksaket' about the complainant got from a website was posted by him. Section 67/68 IT Act and Section 354A IPC were added in the FIR. The petitioner's custody is required to ascertain the website on which the victim's mobile number was posted.

10. Additional Status Report dated 19.10.2016 reveals that the petitioner had deliberately suppressed possession of Samsung mobile phone. On 12.6.2015, a message was sent from his mobile stating that he had returned the office assets to the company including laptop. On 25.03.2015, he sent a message to his father and sister informing his new number details i.e. prepaid number 07415465216. In another message he revealed about another personal laptop apart from his office laptop. It further describes that several messages in his mobile were addressed to females which were prurient in nature. Mobile had videos of animal sex.

11. Proceedings under Section 82 Cr.P.C. have been initiated against the petitioner as he avoided to join the investigation initially.

12. Considering the gravity and serious allegations against the petitioner and his unnatural and unreasonable conduct, I find no sufficient ground for grant of anticipatory bail to the petitioner. The bail application is dismissed.

(S.P.GARG)
JUDGE

MARCH 24, 2017
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