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

+ BAIL APPLN. 681/2017 and CrI.M.A.6280/2017 (exemption)

SUNIL Petitioner

Through: Mr. Kartar Singh, Advocate

versus

STATE Respondent

Through: Mr. Akshai Malik, APP for the State.
WSI Neeraj, PS Begumpur.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **19.04.2017**

An earlier case registered as FIR No.174/2016 by Police Station Begumpur for offence punishable under Section 376-A IPC is presently pending investigation. Noticeably, the said FIR was also lodged by the same woman who has lodged the fresh FIR, it being FIR No.174/2017, under Section 376 IPC again with Police Station Begumpur. In both the cases, allegations by the first informant are that the petitioner had subjected her to forcible sexual intercourse without her consent.

The applicant was enlarged on anticipatory bail by order dated 14.09.2016 in the earlier case on Bail Application No.448/2016. He has been arrested in case FIR No.174/2017 on 29.03.2017. Curiously, while arguing for release on bail before the Sessions Court on 05.04.2017, in the last mentioned case, the applicant took the position that the complainant being his wife, he cannot be accused of rape within the meaning of the definition of the said provision under Section 375 IPC. At the same time, when the learned Sessions Court asked him as to whether there is any marital relationship between the two persons, the applicant conceded that there was

no such connection, apparently his arguments being based on some description in another FIR, it being FIR No.156/2017, under Section 324 IPC, registered in the same Police Station on 20.03.2017.

It is pertinent to note that in the earlier FIR No.174/2016 and in the present FIR No.174/2017, the prosecutrix has described herself as wife of one Harpal. On being asked by this court, the counsel for the applicant conceded that he is not married to the first informant.

In the facts and circumstances, where serious allegations of offence of rape have been levelled against the applicant again, even while the first such case is still pending investigation, there being no reason to conclude that the allegations are unfounded, at this stage of the investigation, no case for release on bail is made out.

The bail application and the accompanying application are dismissed.

R.K.GAUBA, J.

APRIL 19, 2017

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