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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 852/2017

Order Reserved on: 8th November, 2017

Order Pronounced on: 13th November, 2017

AKSHAY KUMAR

.....Petitioner

Through: Ms. Rita Kumar and Ms. Sonam Nagrath
Kohli, Advocates.

versus

THE STATE GOVT OF NCT OF DELHI

....Respondent

Through: Mr. Ashok Kumar Garg, APP for the
State Mr. Manish Vashist, Complainant.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

1. By way of the present petition filed under Section 438 of the Code of Criminal Procedure 1973, (hereinafter referred to as 'Cr.P.C.') the petitioner seeks **grant of anticipatory bail** in FIR No.18/2017 under Sections 498A of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') registered at Police Station, Pandav Nagar, New Delhi. Status Report is on record.
2. Brief facts of the present case are that, on 14.01.2017 a complaint was lodged by one Nisha against her husband Akshay Kumar/present-petitioner, wherein she alleged that she was kidnapped by the petitioners and his family members at Begusaray in Bihar in the month of May 2016; that although a complaint was lodged by her father to the Police Station of Nagar in Begusaray, however no action was taken; that thereafter the complainant's

father moved an application before the Court of Chief Judicial Magistrate, Begusaray, upon which a compromise was arrived at between the family members of both the petitioner and the complainant and their marriage was solemnized on 16.05.2016 in Begusaray; that at the time of marriage the complainant's parents gave dowry articles to the petitioner's family as per their status; that soon after the marriage, the behaviour of the petitioner and his family changed towards the complainant and they started hurling abuses and making cast based comments upon the complainant and his family members; that the petitioner showed his dissatisfaction on the dowry articles received during marriage and demanded Rs. 5 lakhs and one motorcycle from the complainant; that at that time the complainant did not lodge any complaint under the fear of the petitioner and his family members as they threatened her that they would get the petitioner married elsewhere; that thereafter the complainant was sent back to her paternal house without any cogent reason; that on 18.07.2016 at about 8 p.m. the petitioner came to the complainant's house and started abusing her and also tried to hit her for getting his demands fulfilled; that hence thereafter the present complaint was lodged.

3. Ms. Rita Kumar, learned Counsel for the petitioner contended that the petitioner has been falsely implicated in the present case and all the allegations so made by the complainant are totally false and concocted, to humiliate and harass the petitioner and his family; that the petitioner and the complainant knew each other for one year and the marriage was a love marriage; that the petitioner is a Civil

Engineering student and so his father had arranged for a separate rented accommodation for him and the complainant; that the complainant stayed with the petitioner only for 2 months after marriage and thereafter she returned to her maternal home; that the complainant herself demanded Rs 5 Lakhs from the petitioner to dissolve the present marriage and threatened to harass and humiliate him and his family if her demands were not fulfilled; that the complainant has also alleged false kidnapping charges against the petitioner; that no demand was ever made by the petitioner or his family members as alleged by the complainant; that the mother of the petitioner has lodged a complaint dated 08.10.2016 of the erratic behaviour of the complainant; that the complainant is already married to one Arjun Das with whom her marriage has not been dissolved till date; that the petitioner has been joining investigation as and when required and called for; that there is no likelihood of the petitioner either absconding or fleeing from justice; that the petitioner undertakes to abide by all terms and conditions that may be imposed by this Court; that hence in the aforementioned circumstances, anticipatory bail be granted to the petitioner.

4. Per Contra, Mr. Ashok Kumar Garg, learned APP for the State opposed the anticipatory bail application of the petitioner and submitted that there are serious allegations against the petitioner of harassing and humiliating the complainant with demands of dowry. The learned Counsel also drew Court's attention to the documents whereby the complainant was allegedly kidnapped by the petitioner

and submitted that to escape the said proceedings the petitioner had married the complainant. It was further submitted that when the proceedings were going on before the CAW Cell , the complainant and her mother had sustained injuries on two occasions during a quarrel which had taken place with the petitioner and the said fact is supported by the MLC of the complainant and her mother. Counsel argued that in view of the nature and gravity of the alleged offence, the present petition for anticipatory bail be dismissed.

5. I have heard the learned counsel for the parties and perused the material available on record.
6. For the purpose of deciding the present bail application, this Court need not go into the merits of the case, but only consider whether the petitioner has been able to make out a case for grant of anticipatory bail.
7. By an order dated 08.05.2017, the petitioner was granted interim protection by this Court and was directed to join the investigation as and when required. Undisputedly, the petitioner has joined the investigation since then.
8. Moreover, during the course of arguments, Mr. Ashok Kumar Garg, learned APP for the State, on the instructions of the Investigating Officer submitted that the petitioner is no longer required for custodial interrogation.
9. Hence so far as the question of the petitioner fleeing away from the processes of law or not being available to participate in the investigation is concerned, neither any apprehension in this regard has been expressed by the Investigating Agency nor there is any

such fact which could be made a basis to assume that the petitioner will flee away from the process of the law.

10. Therefore, in the facts and circumstances of the case, this Court is satisfied that it is a fit case for granting anticipatory bail to the petitioner – Akshay Kumar subject to the following conditions:-

- (i) the petitioner shall furnish his personal bond to the sum of **Rs.25,000/-** with one surety of the like amount, subject to the satisfaction of the Arresting Officer/SHO concerned;
- (ii) the petitioner shall join investigation as and when called by the Investigating Officer by notice in writing and shall cooperate with the investigation of the case;
- (iii) the petitioner shall not leave NCT without intimation to the Police Station /I.O concerned.

11. The petitioner is further directed that he shall not tamper with the evidence and influence the prosecution witnesses.
12. Accordingly, the petition stands disposed of.
13. Before parting with the above order, it is made clear that anything observed in the present petition shall not have any bearing on the merits of the case during trial.
14. Copy of this Order be given dasti under the signature of the Court Master.

SANGITA DHINGRA SEHGAL, J

NOVEMBER 13, 2017//gr