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

+ **BAIL APPLN. 847/2017**

SUMER CHAND YADAV

..... Petitioner

Through: Mr. Girish Chander, Adv. with
Ms. Meena Gupta, Adv.

versus

STATE

..... Respondent

Through: Mr. Amit Chadha, APPf or the State
with SI CHandan Kumar, PS OIA.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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08.05.2017

Crl.M.A.7600/2017 (exemption)

Allowed subject to all just exceptions.

Application stands disposed of.

BAIL APPLN. 847/2017 and Crl.M. (Bail) 855/2017 (for interim bail)

1. The applicant is facing trial in a criminal case arising out of report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) submitted on conclusion of investigation into First Information Order (FIR) No.472/2016 of Police Station Okhla Industrial Area on the charge of he having committed offences punishable under Sections 6 of Protection of Children from Sexual Offences Act, 2012 (POCSO) and Section 376/506 of Indian Penal Code, 1860 (IPC).

2. As per the prosecution case based on the evidence collected during investigation, the prosecutrix was about 17½ years old when she was statedly allured and seduced and thereafter engaged by the applicant in penetrative sexual intercourse statedly resulting in she having become pregnant with a child. It is his own case in these proceedings that the prosecutrix has delivered the child which was begotten in due course. Noticeably, the FIR was registered on the complaint of the prosecutrix lodged on 27.07.2016, the offences having been committed about a year preceding thereto.

3. During the course of trial, it appears, the statement of the prosecutrix as PW-1 was recorded by the learned Judge on 10.04.2017. Immediately thereafter the applicant moved an application for bail before the trial court claiming that he and the prosecutrix had got married in a temple in December, 2015. The learned trial Judge, however, declined to release the applicant on bail pending concluding of trial.

4. From the copy of the testimony of the prosecutrix as submitted with the application for bail, it does appear that she has spoken about some ceremony in a temple in December, 2015 which was seemingly in the nature of ceremony connected with Hindu marriage. But then, she also went on to state that the applicant had promised to marry her in the wake of physical relationship. Noticeably, she has affirmed by her statement in the court, her case in the FIR that after having engaged her in sexual intercourse several times, the applicant had left the place, the offences having come to light only upon fact of her pregnancy being revealed to her mother. The fact that the ceremony in the temple in December, 2015 to which the prosecutrix has adverted in her testimony was not a marriage of the parties is confirmed by

the applicant himself in his pleadings to the effect that he has since “*got ready to accept the complainant*” and agreed for public marriage which was the assurance held out when he had surrendered to the custody of police on 20.09.2016.

5. The offences involved in the present case are serious in nature. The evidence of the other witnesses including the parents of the prosecutrix is yet to be recorded. In these circumstances, this is not the correct stage to allow the applicant to be released on bail.

6. Dismissed.

MAY 08, 2017
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R.K.GAUBA, J.