

§-22 & 35 (common order)

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

+ BAIL APPLN. 1044/2017

+ W.P.(CRL) 1681/2017

SHRI M. SANDEEP

..... Petitioner

Through: Mr. Ashwin Vaish, Advocate with
Mr. Vinod Pandey, Adv. & Mr. V. Thomas, Adv.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Akshai Maik, APP for the State
Insp. Amar Singh, SHO PS Gazipur & WASI
Krishan.

Mr. Vivek Verma, Adv. with Ms. Manju Rani,
Adv. for complainant.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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29.05.2017

Crl.M.A.9361/2017 (exemption) in BAIL APPLN. 1044/2017

Crl.M.A.9318/2017 (exemption) in W.P.(CRL) 1681/2017

Exemption allowed, subject to all just exceptions.

Applications stand disposed of.

BAIL APPLN. 1044/2017 and W.P.(CRL) 1681/2017

The petitioner was arrested during investigation of FIR No.107/2017 registered on 18.04.2017 under Section 376 IPC. Going by the averments in the FIR, the incident took place on the night of 07.04.2017. The petitioner seeks release on bail on the ground of false implication, *inter alia*, stating that it is the prosecutrix who had been trying to allure or seduce him all

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along while he was warding off all such propositions. He relies on some messages exchanged on social media ("whatsApp") and by the writ petition also seeks a direction to the police for securing original records of such messages.

Report has been submitted which is taken on record on the bail application.

Heard. Perused.

Going even by the bare averments in the FIR, the impression gained is that the prosecutrix agreed to stay at the place of the petitioner voluntarily, she having engaged him in physical relations with her tacit consent, she being aggrieved primarily because the petitioner having allegedly promised to marry her has backed out.

The investigation is likely to take quite some time to conclude. Needless to add, the investigating agency will be obliged to take in possession all necessary evidence including by probe into the source and genuineness of exchanges on social media.

Therefore, the bail application is allowed. In the facts and circumstances set out above, case for release on bail is made out. Granted accordingly subject to the following conditions:-

- (i). The petitioner shall furnish a personal bond in the sum of Rs.20,000/- with one surety in like amount to the satisfaction of the trial court.
- (ii). Prior to his release, he shall give the telephone numbers of self and of at least one other responsible family member besides that of the surety to the trial court.

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- (iii). He shall join the investigation as and when called upon by the investigating officer to do so.
- (iv). He shall scrupulously appear at each and every stage of the proceedings before the trial court so as not to cause any obstruction or delay to its progress.
- (v). He shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
- (vi). He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence; and
- (vii). He shall not leave India without the previous permission of the trial court.

The bail application as well as the writ petition is disposed of in these terms.

A copy of this order shall be transmitted to the jail authorities and to the trial court.

Dasti.

MAY 29, 2017
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R.K. GAUBA, J.