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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2111/2016**
RAJATABH BANERJEE

..... Petitioner

Through: Mr.N.Hariharan, Sr. Advocate with
Mr.Nitin Soni, Mr.Siddharth Yadav,
Mr.Varun Deswal and Mr.Vaibhav
Sharma, Advocates.

versus

STATE

..... Respondent

Through: Mr.Mukesh Kumar, APP for State
with SI Sumitra Sharma, P.S. Rajouri
Garden, Delhi.
Mr.Saurabh Kansal and Ms.Pallavi
S.Kansal, Advocates for complainant.

CORAM:
HON'BLE MR. JUSTICE I.S.MEHTA

ORDER
18.04.2017

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This is an application under Section 438 Cr.P.C. filed on behalf of the petitioner for grant of anticipatory bail in case FIR No.807/2016, under Section 376 IPC, registered at Police Station Rajouri Garden, Delhi.

Counsel for the complainant has pointed out that inadvertently word 'no' has been mentioned/typed in para-2 of the order dated 7th October, 2016 passed by this Court and the same needs to be modified/rectified.

In view of the submission made by counsel for the complainant, the word 'no' is taken out from the order. Rest of the order shall remain the

same.

Learned senior counsel for the petitioner has submitted that the petitioner has joined the investigation in the aforesaid case. He further submits that nothing is to be recovered from or at the instance of the petitioner and the petitioner is further ready to join the investigation as and when directed and required to do so. Learned senior counsel further submits that the charge sheet has already been filed qua against the present petitioner and the petitioner is not required for further investigation and submits that the petitioner may be released on bail.

On the other hand, learned APP for the State and learned counsel for the complainant vehemently oppose the bail application and submit that the petitioner under the garb of marriage established physical relations with the complainant and later on refused to marry her. Counsel for the complainant has submitted that bail should not be granted in such like cases, as the issue involved in the present case is obtaining of consent wrongfully under the pretext of marriage. In support of his arguments, he has relied upon the decision of Calcutta High Court reported as *(2007) CriLJ 4783*.

Heard the learned counsel for the parties and perused the record.

What is emerging on the record is that the petitioner has joined the investigation and the charge-sheet has already been filed against the petitioner and the petitioner has appeared before the Court below. Another point for the consideration is whether there was consent at the time of establishing physical relations or not is a matter of trial and the same is kept open.

In these circumstances, I admit the petitioner on bail, on his furnishing bail bond in the sum of Rs.25,000/- with one surety of the like

amount, to the satisfaction of the IO/Trial Court concerned.

The present bail application is allowed and stands disposed of in the above terms. The observations made in this order shall not affect the merits of the case at any stage of the case.

Copy of this order be given *dasti* to the parties, as prayed.

I.S.MEHTA, J

APRIL 18, 2017

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