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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1275/2017**
HARDWARI LAL VASHISTHA

..... Petitioner

Through: Mr.Satya Narayan Vashishth and
Ms.Meena Kumari, Advocates.

versus

STATE GNCT OF DELHI

..... Respondent

Through: Mr.Panna Lal Sharma, APP for State
with Insp. C.R.Meena and SI Sangita,
P.S. Ashok Nagar, Delhi.

CORAM:

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

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07.07.2017

Crl.M.A.No.10487/2017 (Exemption)

Exemption granted, subject to all just exceptions.

Application stands disposed of.

BAIL APPLN. 1275/2017

This is an application under Section 439 Cr.P.C filed on behalf of the petitioner for grant of bail in case FIR No.234/2017, under Sections 376(D)/328/497/342/506/377 IPC and Section 67 of the Information Technology Act, registered at Police Station New Ashok Nagar, Delhi.

Learned counsel for the petitioner has submitted that the petitioner is an old person of 70 years age. He is a senior citizen and the allegations as alleged in the FIR are false and baseless. Counsel further submits that the present FIR has been lodged against him due to ulterior motive to implicate

the petitioner in a false case due to the reasons best known to the complainant. Counsel further submits that the petitioner has no nexus with the allegations made in the FIR. Counsel further submits that the FIR was lodged on 20th May, 2017 and the petitioner is in judicial custody since 23rd May, 2017. Counsel further submits that the alleged cooked up story starts from committing the rape on the person of the victim in December, 2015 when she was alleged to have been given some intoxicant in a car and thereafter she felt unconsciousness and when she regained consciousness, she found herself in a precarious condition. It is further submitted that the FIR indicates that she could not disclose this fact to her husband as she was extended threat by the petitioner and on the basis of the said threat extended, the petitioner kept on establishing sexual relationship with the complainant and thereafter the complainant along with the petitioner went to Goa on 10th April, 2017 and remained there for five days and the air tickets for Goa were arranged by the petitioner himself and during the said period, they had sexual relations at Goa as well and came back to Delhi on 15th April, 2017 by Air Asia.

Learned counsel for the petitioner has further submitted that as per the allegations, the last sexual relationship between the petitioner and the complainant was established in Goa. Counsel further submits that had there been no consent on the part of the complainant/victim, who is major and married woman, she would not have gone to Goa with the petitioner and would not have stayed there for five days. However, after coming back from Goa, she lodged a false case against the petitioner. Counsel further submits that since the petitioner is a senior citizen and is in judicial custody since 23rd May, 2017, no useful purpose would be served by keeping him in

custody for an indefinite period and prays that the petitioner may be released on bail.

The learned APP for the State and the complainant present in person vehemently oppose the bail application and submitted that the petitioner extended threats to the complainant through messages and because of the said threats, the petitioner took the naked photographs and submitted that the bail application of the petitioner may be dismissed.

Heard learned counsel for the parties and perused the record.

It is an admitted case that the petitioner is a senior citizen. It is further admitted case between the parties that the complainant/prosecutrix is a major and married woman. It is also coming on record that the initial incident had taken place in the month of December, 2015 and since then the relationship between the parties went on due to the alleged threat extended to the complainant by the petitioner and that under the threat the said factum was not disclosed by the complainant to her husband or to any third party or did not register any FIR. As per the prosecution story, the last incident had taken place in the month of April, 2017 after a gap of about two years when the alleged air tickets were arranged by the petitioner himself. Had there been no consent on the part of the victim/prosecutrix, she would not have gone to Goa along with the petitioner by air. All the facts and circumstances only indicate that if at all there is any allegation that is with consent.

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 concerned Trial Court with the condition that:

- (i) The petitioner shall not leave the country without prior

permission of the Court concerned;

- (ii) He shall not tamper with the prosecution evidence and shall not influence the prosecution witnesses in any manner;
- (iii) He shall not make visit the house of the complainant/victim and shall not make any contact with her either telephonically or in any other mode and also shall not sent messages to the complainant through social media or by any other mode and if any message or any kind of communication is found to be made, the same be sealed and kept in a sealed cover and the same be presented before the Trial Court concerned whenever and wherever is required.

The present bail application is allowed and stands disposed of in the above terms. This order shall not affect the merits of the case during the trial of the case.

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

I.S.MEHTA, J

JULY 07, 2017

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