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

+ **BAIL APPLN. 1411/2017**

AMAN @ SURESH

..... Petitioner

Through: Mr.Pinaki Addy, Advocate

versus

THE STATE NCT OF DELHI

..... Respondent

Through: Mr.Kewal Singh Ahuja, APP for the
State with W/SI Koyal PS Nihal
Vihar

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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25.07.2017

CRL.M.A.11741/2017

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

BAIL APPLN. 1411/2017

1. By way of this application filed under Section 439 Cr.P.C. the petitioner is seeking regular bail in case FIR No.0321/2017, under Sections 376 IPC, PS Nihal Vihar.
2. The learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. He is a married man having three children, his family is starving as the bread earner of the family i.e. the petitioner is languishing in jail since 17th June, 2017.

3. Learned counsel for the petitioner submits that the petitioner is permanent resident of Delhi and there is no possibility of tampering with the evidence in case he is released on bail.

4. Case FIR No.0321/2017 has been registered against the petitioner on 16th June, 2017 at Police Station Nihal Vihar on the basis of the complaint made by 'K' (name withheld). As per statement made by the complainant she was an employee in the factory of the petitioner. During the period November, 2016 her mother had gone to their native place in Bihar. Her father used to leave for his job in the morning and her younger siblings used to go to school. She used to remain alone at home during day time. The petitioner who was her employer, used to handover the material for the job of fixing the chappal at home in the morning and he used to collect the same in the evening.

5. In November, 2016 when she was alone at home the petitioner allegedly expressed his love for her and his desire to marry her. She pointed out to him that he is already married, having three children. Thereafter while saying that he would take care of everything, forcibly established physical relations with her and also threatened to kill her if she discloses the incident to anyone. Later on when her mother returned from the village, on seeing her condition her mother suspected her to be pregnant. Then she disclosed the entire incident to her mother and the matter was reported to the police. In the FIR it was also mentioned that at that time she was eight months pregnant.

6. The principles governing the discretion of the Court at the stage of considering application for bail have been laid down in **Prahlad Singh**

Bhati vs. N.C.T. Delhi (2001)4 SCC 280 which reads as under:

“8. The jurisdiction to grant bail has to be exercised on the basis of well settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behavior, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not excepted, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”

7. Taking into consideration the gravity of the charge against the petitioner that he allegedly committed rape on her employee who was an unmarried girl and who is now in advanced stage of pregnancy, I do not find it to be a fit case to release the petitioner on bail merely because he has three children to support or that he is the sole bread earner of the family.

8. The bail application is dismissed.

PRATIBHA RANI, J.

JULY 25, 2017/ 'hkaur'