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

+ **BAIL APPLN. 1436/2017**

DHEERAJ KUMAR SHARMA

.....Petitioner

Through: Mr. Lalit Kumar with Mr. Satendra
Singh, Advocates.

Versus

STATE & ANR

....Respondent

Through: Ms. Anita Abraham, APP for the State with
ASI Veena, PS Ranhola.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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11.09.2017

1. By way of the present petition filed under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') the petitioner seeks **grant of regular bail** in FIR No. 86/2017 under Sections 376/506 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), registered at P.S Ranhola, Delhi. The petitioner is stated to be in judicial custody since 13.02.2017. Status report is on record.
2. Briefly stated the prosecution case as reflected in the chargesheet was that on 12.02.2017 the complainant filed a complaint wherein she stated that her neighbour/Dheeraj Kumar Sharma/petitioner-herein, being well acquainted with the complainant's family, indulged into sexual relation with her against her wishes.

Complainant further stated that she was compelled to stay with the petitioner in a rented accommodation from 09.01.2016 to 24.02.2016 where he forcibly committed rape on her during the said period. It is also alleged that the petitioner repeatedly threatened the complainant to kill her and her family if she files any complaint against him.

3. Case was registered under Section 376/506 of IPC, petitioner was arrested and after completion of the investigation charge sheet was filed before the court of Metropolitan Magistrate. The petitioner has previously filed two applications for seeking bail, however the same have been dismissed vide orders dated 10.04.2017 and 26.05.2017 respectively.
4. Mr. Lalit Kumar, learned counsel for the petitioner contended that the petitioner has been falsely implicated in the case by the complainant to extort money from him and he is in judicial custody since 13.02.2017; that allegation levelled against the petitioner in the FIR do not attract offence under Section 376/506 IPC; that there are contradictions in statement of the complainant recorded in the complaint and under Section 164 Cr.P.C. as different dates of incident have been mentioned in both the statements.
5. It was further submitted by the counsel for the petitioner that, as the investigation in the present case is complete, further incarceration of the petitioner would serve no useful purpose in the interest of justice; that the charge sheet in the case has already been filed and there is no chance of tampering with the prosecution witness; hence, the petitioner be released on bail.

6. Per contra, Ms. Anita Abraham, learned APP appearing for the State contested the bail application and submitted that there are specific allegations of sexual assault on the person of prosecutrix against the petitioner; that the petitioner has played an active role in the commission of the alleged offence; that the contradictions as pointed out by the counsel for the petitioner are touching upon the merits of the case which can only be decided after the evidence is led by the parties; that the prosecutrix is yet to be cross-examined and there are chances of petitioner tampering with the prosecution evidence; hence, the present bail application cannot be allowed.
7. I have heard the arguments advanced by learned counsel for the parties and perused the material available on record.
8. On perusal of the record, it is observed that it is undisputed that the petitioner is known to the complainant from past three years when he first shifted to the complainant's neighbourhood. The complainant alleges to have been sexually assaulted by the petitioner repeatedly throughout three years and to have been threatened with dire consequences. Complainant further states in her complaint that from 09.01.2016 to 24.02.2016 the petitioner kept her away in a rented accommodation and compelled her into illicit intercourse with him. However the complaint against the petitioner has been filed by the complainant only on 12.02.2017.
9. The woman who is owner of the rented house, where the alleged offence is said to have been committed, has deposed in her statement under Section 161 Cr.P.C. that the complainant resided at her house with the petitioner from 09.10.2016 to 14.01.2016 and

that the petitioner vacated her house on 15.02.2016. However the complainant in all her statements has stated that the petitioner compelled her to stay with him in the said rented house from **09.01.2016** to **24.02.2016** and that on the midnight of 24.02.2016 she managed to call her husband and escape from the said house.

10. Further in the MLC dated 12.02.2017 the complainant has deposed before the doctor that she was in sexual relation with the petitioner from last three years, against her will and that her last sexual relation with the petitioner was 4 months ago from the date of medical examination. Nothing incriminating against the petitioner can be attributed from the medical report of the complainant.
11. In light of the above observations and other facts and circumstances of the present case, this Court is of the view that there is prima facie case in favour of the petitioner.
12. Under these circumstances, this Court is of the opinion that the petitioner be released on bail, subject to the following conditions:
 - i) That the petitioner shall furnish a personal bond in the sum of **Rs.25,000/-** with one surety of the like amount subject to the satisfaction of the concerned Court;
 - ii) That the petitioner shall cooperate with the investigation and make himself available for interrogation by police officer as and when required;
13. Before parting with the above order, it is made clear that anything observed in the present petition shall not have any bearing on the merits of the case during trial.

14. Accordingly, the petition stands disposed of so also pending application(s), if any.
15. Dasti under the signature of the Court Master.

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 11, 2017

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