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* **IN TH**

E HIGH COURT OF DELHI AT NEW DELHI

+ **BAIL APPLN. 1516/2017**

GOPI NATH SAHA

..... Petitioner

Through

Mr. Vivek Aggarwal, Adv

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through

Mr. Raghuvinder Varma, APP for
State

SI Seema PS Ashok Vihar
Complainant in person

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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04.12.2017

At the outset, submissions have been made on behalf of the appellant that the matter be referred to mediation.

The complainant of the case had sought time till 12:30 PM to seek instructions from her mother and submitted that she was not aware as to what would be the outcome of mediation proceedings as she is unable to comprehend the same. To be awaited till 12:30 pm.

ANU MALHOTRA, J

DECEMBER 04, 2017

At 12:30 pm the matter is taken again. Complainant submits that she does not want to participate in any medication proceedings.

Without any observations on the merits and demerits, it is

essential to observe that the FIR was initially registered by the complainant under sections 498A/406/34 IPC against her spouse and in laws. The present applicant is the father-in-law of the complainant and it is apparent from a perusal of FIR that allegations for commission of offences under sections 498A/406 IPC were levelled against him. It has now been submitted on behalf of the complainant and the State that there were allegations of the commission of an offence punishable under section 376 IPC also against the applicant. On behalf of the applicant it has been strenuously urged that in the FIR dated 07.06.2017 there is no averment in relation to commission of rape and the FIR was also not in relation thereto. It was submitted on behalf of the applicant that the subsequent submission made by the complainant vide her statement dated 12.04.2017 that her father-in-law (the applicant) had raped her on 06.05.2016, was an after-thought and concocted. It is further submitted that the complainant had not even chosen to get herself medically examined.

On behalf of the State reliance has been placed on the statement of Prosecutrix (complainant) under section 164 CrPC recorded on 28.07.2017 by the Metropolitan Magistrate in corroboration of her statement. On a perusal of said statement of the prosecutrix under section 164 CrPC and also the factum that the prosecutrix had made allegations in relation to allegation of rape by father in law on 12.04.2017 to the ACP, CAW Cell, coupled with the factum that in the FIR which has been lodged there are averments regarding sexual innuendoes made by father in law, there is no ground for granting anticipatory bail, whatsoever.

Application is declined.

All interim protections are withdrawn.

Copy of the order be given Dasti, as prayed.

ANU MALHOTRA, J

DECEMBER 04, 2017

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