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

+ **BAIL APPLN. 2670/2016**

MOHD. SALIM

..... Petitioner

Represented by: **Mr. R.K. Tarun, Adv.**

versus

STATE

..... Respondent

Represented by: **Ms. Rajni Gupta, APP with SI
Manoj Tomar, PS Seelampur.**

+ **BAIL APPLN. 2552/2016**

MAINAJ

..... Petitioner

Represented by: **Mr. R.K. Tarun, Adv.**

versus

STATE

..... Respondent

Represented by: **Ms. Meenakshi Chauhan, APP
with SI Manoj Tomar, PS
Seelampur.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
23.01.2017

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1. By the present petition the petitioners who are husband and wife seek anticipatory bail in case FIR No.247/2016 under Section 363 IPC registered at PS Seelampur on 7th April, 2016. On the basis of the second statement recorded under Section 164 Cr.P.C. Sections 365/366/368/376 IPC and Section 4 of the Protection of Children from Sexual Offences Act (in short POCSO) were also added during the course of investigation in the above-noted FIR.

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2. Learned APP for the State while opposing the anticipatory bail applications states that all other accused to whom further role have been assigned are in custody except Munir who is absconding.

3. The above-noted FIR was registered on the complaint of the father of the prosecutrix who alleged that her 12 year daughter had been kidnapped on 7th April, 2016. Later he raised suspicion against Fida Hussain @ Fidus/o Banne Hassan, R/o Village Vasundhra, District Badaun, U.P. The prosecutrix was recovered from the house of Fida Hussain @ Fidus from village Vasundhra, District Badaun on 27th April, 2016. On the same day her statement under Section 164 Cr.P.C. was recorded when she stated that 20-25 days ago in the afternoon at about 12 O'clock Fidus came outside her house. Munir and Mushir were also standing there. They forcibly picked her and pushed her in a car. She became unconscious. They took her to the house of the present petitioners where she was kept. She further stated that after keeping her in the house for the whole day at 11.00 PM she and Fidus were made to board a train to Ahmedabad where Fidus expressed his desire to marry the prosecutrix. Fidus was intoxicated and when she started crying he brought her back. She further stated that Fidus committed no overt act or no wrong act with her.

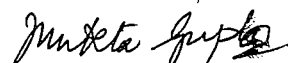
4. Later second statement of the prosecutrix was recorded under Section 164 Cr.P.C.. In the second statement recorded under Section 164 Cr.P.C. though she stated that Munir, Mushir, Banne, Hussain, Salim and Bhuri i.e. the two petitioners herein, all of them said that they would get her Nikah done. Salim called on phone to Fidus and stated that the family members of the prosecutrix were looking for her and she should be dropped at her home.

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Thereafter they tried to take her away. While leaving to Seemapuri they met the Police Officer who asked as to why she was shouting, however they stated that Fidur and the prosecutrix were brother and sister and since she was beaten she was crying. She further stated that they boarded the train for Ahmedabad at 11.00 PM.

5. It may be noted that the supplementary statement of the prosecutrix was recorded on 7th May, 2016 i.e. after 10 days of her first statement under Section 164 Cr.P.C. Considering the fact that in the first statement the only role assigned to the petitioner is that she was kept in the house of the petitioners from afternoon till late evening and even in the supplementary statements the attribution to Salim, the petitioner herein and husband of Mainaj is that he told Fidur to drop the girl at her house as her family members were looking for her, this Court deems it fit to grant anticipatory bail to the petitioners. It is therefore directed that in the event of arrest the petitioners be released on bail on their furnishing a personal bond in the sum of ₹25,000/- each with one surety each of the like amount subject to the satisfaction of the Arresting Officer/ SHO concerned, further subject to the condition that they will join the investigation as and when directed and will not leave the country without the prior permission of the Court concerned.

6. Petitions are disposed of. Order dasti.


MUKTA GUPTA, J.

JANUARY 23, 2017
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