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

+ **BAIL APPLN. 1561/2017**

VINAY KUMAR

..... Petitioner

Through: Mr.Vikas Pahwa, Sr.Advocate with
Mr.Rajpal Kasana, Mr.Nagendra
Kasana, Ms.Harshita Singh,
Ms.Kinnori Ghosh & Ms.Kanika
Sondhi, Advocates

versus

STATE (GOVT. NCT OF DELHI)

..... Respondent

Through: Ms.Kusum Dhalla, APP for the State
Mr.S.C.Malhotra, Advocate for the
Complainant with complainant in
person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

22.08.2017

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1. The petitioner is seeking regular bail in case FIR No.18/2017 registered under Sections 354A/354C/354D/376/506/509/323 IPC, PS South Avenue, Delhi.

2. Mr.Vikas Pahwa, learned senior counsel appearing on behalf of the petitioner has referred to the written complaint dated 14th May, 2017 on the basis of which FIR No.18/2017 at PS South Avenue, Delhi was registered wherein allegations of rape were not made against the petitioner. In the FIR without making any allegation of rape, the complainant alleged that the petitioner was blackmailing her on the basis of her indecent photographs,

about which she did not know when those photographs were taken by the petitioner and used to blackmail her. He has drawn the attention of this Court to the first supplementary statement under Section 161 Cr.P.C. recorded on 15th May, 2017 wherein also the allegations of rape were not made though the petitioner had been arrested by that time and his mobile phone was seized. Nothing objectionable was found in his mobile. In her first supplementary statement under Section 161 Cr.P.C. dated 15th May, 2017 she has talked about consensual relationship but in the second supplementary statement recorded on 15th May, 2017 she herself has stated that initial physical relation between them was with her consent but after she was shown her objectionable photographs and video on his mobile, she did not want to continue with the relation but he repeatedly committed rape on her by threatening to put the photographs and video on the internet.

3. Learned senior counsel for the petitioner has also submitted that even as per the FIR the complainant was having friendly relations with the petitioner and was meeting him frequently as well talking to him over phone.

4. The complainant who is present along with her counsel submits that even now the complainant is being threatened and is receiving the threatening telephone calls. It is contended that she had been blackmailed by the petitioner and because of the threats extended by him in the recent past, the bail application may be rejected.

5. SI Virender Singh on directions of the learned ASJ has placed on record the additional status report mentioning that the visits of the prosecutrix to the jail to meet the petitioner have been confirmed. She had met him in jail on 14th, 16th, 19th & 27th June, 2017.

6. Perusal of the record shows that on 14th May, 2017 at 10.45 p.m. DD No.22-A was recorded at PS South Avenue and the informant was the complainant. She visited the PS along with her mother and sister and complained about being harassed by the petitioner who was making various calls to her and insisting to meet him at Gate No.17 of Rashtpati Bhavan. As per rukka the written complaint addressed to the SHO PS South Avenue was handed over to the police which was in the handwriting of her sister and signed by her wherein no allegations of rape was made. In her statement under Section 164 Cr.P.C., the complainant has mentioned that she was married twice and is having two children. Her first husband had expired and she is living separately from her second husband. She has stated about the friendship with the petitioner and was having sexual relations with him. In the alleged history given by the petitioner to the Doctors at Lady Harding Medical College it is recorded on her MLC prepared on 15th May, 2017 at 7.30 p.m. that the complainant was in sexual relationship with the petitioner for a period of one year.

7. The apprehension of the complainant that she is receiving threats or threatening calls from the petitioner cannot be a ground to decline the bail to the petitioner as he is in custody for the last more than three months. It is the complainant who had been frequently visiting the petitioner in jail.

8. Taking into consideration the entire facts and circumstances, I find it to be a fit case to release the petitioner on bail.

9. The petitioner is admitted to bail on his furnishing a personal bond in the sum of ₹50,000/- with one surety of the like amount to the satisfaction of the learned Trial Court/link Court, subject to the following conditions:

(i) He shall not try to contact the prosecutrix.

- (ii) He shall not leave the country without the permission of the Court.
- 10. The bail application is allowed in the above terms.
- 11. Copy of this order be sent to the Jail Superintendent for information.
- 12. A copy of this order be give dasti under the signature of the Court Master.

PRATIBHA RANI, J.

AUGUST 22, 2017
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