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

+ **BAIL APPLN. 169/2018**

VED PRAKASH MISHRA

..... Petitioner

Represented by: Mr. Manoj Ohri, Sr. Advocate
with Mr. Utkarsh, Mr. Vaibhav
Sharma, Ms. Anshu Priyank,
Mr. Rajiv Ranjan and Mr.
Prashant, Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Represented by: Ms. Rajni Gupta, APP for State
with SI Arun, PS Bhajan Pura.
Mr. Hemendra Pratap Singh,
Advocate for the complainant.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

19.04.2018

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1. By this petition the petitioner seeks bail in case FIR No. 591/2017 under Sections 376/506 IPC registered at PS Bhajan Pura, Delhi.
2. Learned counsel for the petitioner contents that the complaint was given after more than one year of the alleged date of incident on 21st September, 2017 whereas the last incident, even as per the prosecutrix was on 19th October, 2016. Case of the prosecutrix is that she for the first time met the petitioner at High Court of Uttar Pradesh at Lucknow Bench in October, 2012 however, from the call details of the mobile phone of the prosecutrix, it is evident that she was in touch with the petitioner even in May, 2012. Thus the parties were known to each other even prior to the

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alleged first meeting. The complainant further alleged that the petitioner came to Delhi on 19th October, 2016 which fact has not been verified and till date the flight documents of the petitioner have not been seized by the Investigating Officer as the same would belie the version of the prosecutrix.

3. Learned counsel for the petitioner further contends that though the case of the prosecutrix is that the petitioner took photographs on his phone however, the petitioner was in possession of only a number phone and not a multimedia phone with various features. This is the reason that the phone of the petitioner has not been seized till date by the investigating officer.

4. Allegations of the prosecutrix in the above noted FIR based on the written complaint given by her at PS Bhajan Pura on 21st September, 2017 are that in October, 2012 she went for a family matter to High Court of Uttar Pradesh, Lucknow Bench where she met the petitioner who started chatting with her. While they were talking, the petitioner took her mobile phone and called his number, thereby retrieving the number of the complainant. Thereafter the petitioner started following her and made number of calls. It is further alleged that in the year 2013 the petitioner came to Delhi and raped the complainant when she was not medically fit. The last incident alleged in the FIR is of October, 2016.

5. Though as per the learned APP for the State on instructions it has been verified that the petitioner and the complainant stayed in a hotel in Lucknow however, the case of the prosecutrix in the FIR was that the petitioner used to come down to Delhi and he committed rape on her on

different dates at Delhi.

6. As far as meeting of the petitioner and complainant at CL International, Lucknow is concerned there is no allegation of the prosecutrix that she was raped by the petitioner at that place.

7. Learned counsel for the petitioner has also pointed out that till date phone of the petitioner has not been seized for the reason the same is not a multimedia phone but only a number phone which belies the version of the prosecutrix that her obscene photographs and that of the petitioner were clicked by the petitioner on his mobile phone.

8. Considering the nature of allegations, that the charge sheet, has been filed, the petitioner has been in custody since 26th November, 2017 and is a resident of Maharajganj, U.P. whereas the complainant is residing in Delhi, this Court deems it fit to grant bail to the petitioner.

9. It is, therefore, directed that the petitioner be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court/CMM concerned, further subject to the condition that the petitioner will not leave the country without prior permission of the Court concerned and in case of change of residential address, the same will be intimated to the Court concerned by way of an affidavit.

10. Petition is disposed of. Order dasti.

MUKTA GUPTA, J.

APRIL 19, 2018/‘vn’