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

DECIDED ON : APRIL 12, 2018

+ **BAIL APPLN. 457/2018 & CRL.M.B. 326/18**

KAMLESH KUMAR MAGNANI

..... Petitioner

Through : Mr.Laksh Khanna, Advocate with
Mr.M.A.Khan, Advocate.

versus

STATE (GOVT OF NCT OF DELHI) Respondent

Through : Mr.Tarang Srivastava, APP.
Mr.R.S.Chaggar, Advocate for the
complainant.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. The petitioner Kamlesh Kumar Magnani seeks anticipatory bail under Section 438 Cr.P.C in case FIR No.77/2018 under Sections 376/328/509 IPC registered at Police Station Punjabi Bagh. Status report is on record.

2. I have heard the learned counsel for the parties including the counsel for the complainant and have examined the file. The petitioner's counsel urged that the petitioner is a doctor by profession and is pursuing his DNB from Agarsen hospital. The prosecutrix is well-educated and is a Lab Technician by profession. She is adult and works at the said hospital. Counsel further urged that in May, 2017 friendship developed between the complainant and the petitioner; it continued till December, 2017. Thereafter, the complainant and her family members threatened the petitioner on multiple occasions to

destroy his carrier. It is urged that no 'promise to marry' was ever given to the complainant by the petitioner. Allegations leveled by the prosecutrix are false. Relationship (if any) between the two was with consent.

3. Learned counsel for the complainant urged that physical relations were established by the petitioner with the prosecutrix on the false 'promise to marry' on several occasions. Subsequently, the petitioner declined to perform marriage as his parents were not agreeable to inter-cast marriage. The victim is being threatened and pressurized by the petitioner and his colleagues to withdraw the complaint and settle the dispute on acceptance of monetary consideration.

4. The petitioner undisputedly was working as a doctor at Agarsen Hospital where he is pursuing his DNB. The complainant is a Lab Technician at the said hospital. She was not acquainted with the petitioner prior to May, 2017. She came into contact with the petitioner when she had taken her mother for treatment to the petitioner. Apparently, friendship developed between the two thereafter. Physical relations were established by the petitioner with the prosecutrix on several occasions as disclosed in the FIR and 164 Cr.P.C. statement. Apparently, the petitioner while treating the victim's mother was in a dominating position. There are specific allegations by the complainant in the FIR and in 164 Cr.P.C. statement that her consent for physical relations was obtained by the petitioner on the false 'promise to marry'. *Prima facie* her version inspires confidence as there was no other reason for the prosecutrix to have physical relation with the petitioner with whom she had no prior acquaintance and it developed only during the

treatment of her mother at the hospital. It has come on record that the families of both the petitioner and the prosecutrix had met to negotiate the marriage which did not take place. Victim's plea is that the petitioner's parents did not agree to the inter-caste marriage. The petitioner was well-aware about the victim's status/caste before establishing physical relations.

5. The matter is still at initial stage and mobile phone allegedly containing nude photographs of the victim is yet to be recovered. The petitioner has not joined the investigation so far and non-bailable warrants have been issued against him. There are specific allegations that pressure is being put upon the prosecutrix to settle the dispute and certain statements of the colleagues of the petitioner have been recorded by the investigating officer in this regard.

6. Considering the gravity of the offence and the serious allegations against the petitioner whereby as a doctor, while treating the victim's mother, he developed friendship with an unmarried girl, aged around 24 years, and subsequently established physical relations allegedly on the 'promise to marry', it is not a fit case for grant of anticipatory bail.

7. The bail application is dismissed.

8. Observations in the order shall have no impact on the merits of the case.

9. Order *dasti*.

**S.P.GARG
(JUDGE)**

APRIL 12, 2018/sa