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

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Judgment delivered on: 09.04.2018

+ BAIL APPLN. 476/2018

SACHIN MANN

..... Petitioner

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Sumit Choudhary, Advocate.

For the Respondents : Mr. Akshai Malik, APP for the State.
SI Tejwati, PS Alipur.
Mr. Gaurav Chitkara with Mr.
Ankit Sethi, Advocates for the
complainant.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

09.04.2018

SANJEEV SACHDEVA, J. (ORAL)

1. The Nominal Roll of the petitioner has been received. The same is taken on record. As per the Nominal Roll, the petitioner was arrested on 03.02.2018 and, as on 03.04.2018, has already undergone two months of imprisonment.

2. The petitioner seeks Regular Bail in FIR No.48/2018 under Sections 376/323/506 IPC, Police Station Alipur. The allegations in the FIR are that the prosecutrix and the petitioner were known to each other for the last 3-4

years and had even travelled out of station. It is alleged by the prosecutrix that the relation between the prosecutrix and the petitioner was even known to her husband. It is alleged that the consensual physical relationship was established several times. However, on 01.02.2018, the petitioner physically assaulted the complainant and forced himself upon her without her consent, consequent to which, the subject FIR has been lodged.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He submits that both the parties are married and, as per the allegations, had indulged in consensual relationship for over 3-4 years. Learned counsel for the petitioner submits that the complainant had travelled with the petitioner out of station also and, to substantiate the said contentions, has placed on record several photographs, which, it is contended, were taken by the prosecutrix herself with her cell phone and show that the relationship was more than mere friendship. It is submitted that in her supplementary statement she has admitted the photographs and stated that whenever people travel on holiday selfies are taken.

4. Learned counsel for the petitioner further submits that there is no medical evidence to substantiate the fact that the petitioner forced himself on the prosecutrix on 01.02.2018 or physically assaulted her. Learned counsel for the petitioner further contends that even the husband of the prosecutrix has given a statement to the Investigating Officer that he was aware of the relationship between the petitioner and the prosecutrix and further that she had even attempted to instigate him to lodge a false complaint against one of his debtors.

5. Learned APP for the State, under instructions from the Investigating Officer, submits that no complaint was lodged by the prosecutrix on 01.02.2018. The complaint was lodged on 02.02.2018 and she was immediately taken for medical examination.

6. It is noticed in the record that the petitioner had changed her clothes and had taken a bath before lodging the compliant. MLC shows that no fresh injury marks and evidence of sexual assault were found.

7. Without commenting upon the merits of the case, perusal of the records shows that the petitioner has made out a case for being enlarged on bail. Accordingly, the petition is allowed. The petitioner is directed to be released on bail, on furnishing a bail bond in the sum of Rs. 50,000/- with one surety of the like amount to the satisfaction of the Trial Court, if not required in any other case.

8. The petitioner shall not leave the country without the permission of the Trial Court. The petitioner shall not do anything, which shall prejudice either the trial or the prosecution witnesses and the petitioner and his family shall not make any attempt to contact the prosecutrix or her family members.

9. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

APRIL 09, 2018
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