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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1123/2018 & CRL.M.A. 9240/2018**

JITENDER SAINI Petitioner
Through: Mr. Dharmendra Kr. Mishra, Adv.

versus

STATE NCT OF DELHI Respondent
Through: Mr. Sanjeev Sabharwal, APP for State
with SI Neetu Yadav, PS Burari.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **22.05.2018**

Status report has been submitted on behalf of the State.

Arguments addressed on behalf of either side. On behalf of the applicant it has been submitted that the applicant has been falsely implicated in the instant case and the allegations levelled against the applicant are in relation to breach of promise to marry. It has further been submitted on behalf of the applicant that the relations between the applicant and the prosecutrix, if any, are only consensual and that the prosecutrix is a post-graduate. It has also been submitted on behalf of the applicant that the present FIR has been lodged only when the applicant got married on 06.03.2018 with the FIR having been lodged on 06.03.2018 itself.

On behalf of the State it has been submitted that the allegations against the applicant are serious that he entered into physical relations with the complainant and further had taken her to Rajasthan and put

Sindur onto her forehead and lived with her and also married in breach of promise to marry.

Without any observations on the merits or demerits of the case, it is essential to observe that the averments made in the FIR indicate the alleged commencement of relations between the applicant and the prosecutrix in the year 2016 with an incident of sexual relations in an Ertiga car. The statement under Section 164 Cr.PC, 1973 of the prosecutrix is wholly silent in relation thereto and speaks of commencement of relationship at Rajasthan where the prosecutrix is alleged to have been taken by the applicant and married her by putting sindur onto her forehead. The prosecutrix stated to be aged 22 years at the time of the incident, was aged 23 years at the time of recording of statement under Section 164 Cr.PC, 1973 and was pursuing post-graduation in political science at the time of lodging of the FIR.

A catena of verdicts is relied upon on behalf of the petitioner in support of the submissions made to the effect that the relationship between the applicant and the prosecutrix was wholly consensual and in the circumstances, no useful purpose would be served by incarceration of the applicant and that he is not required for any custodial interrogation. Reliance is placed on behalf of the petitioner on the verdict of the Hon'ble Supreme Court in ***Deepak Gulati Vs. State of Haryana*** in CrI. A. No.2322/2010, in ***Deelip Singh @ Dilip Kumar Vs. State of Bihar*** in CrI. A. 44/2004, in ***Uday vs. State of Karnataka*** in Appeal (CrI.) 336/1996, in ***Rohit Chauhan Vs. State NCT of Delhi*** in Bail Appln. 311/2013, in ***Jagdish Nautiyal vs. State*** in Bail Appln. 1317/2012, in ***Akshay Manoj Jaisinghani Vs. State of***

Maharashtra in anticipatory Bail Appln. 2221/2016, in Ms. *Sonali Alfred Jadhav (in the matter between) Mahesh Balkrishna Dandane Vs. State of Maharashtra* in Crl. Intervention Appln. No. 179/2014, in *J. Mohammed Asarudeen Vs. The State* in Crl. OP (MD) 23393/2016, in *Sachin @ Devendra Gajanand Sangray Vs. State of Gujarat* in Crl. M. A No. 15688/2014 and in *Pradeep Kumar @ Pradeep Kumar Verma Vs. State of Bihar* in Appeal (Crl.) 1086/2007.

On a consideration of the totality of the circumstances of the case, the applicant is allowed to be released on bail in the event of arrest, on submission a bail bond of Rs.1 lakh with one surety of the like amount to the satisfaction of the learned trial Court with directions that he shall not leave the country, shall join the investigation as and when required, shall make no contact with the complainant and her family members and shall commit no offence whatsoever. In the event of there being any FIR registered against him, the State would bring it to the notice of the Court.

Nothing stated hereinabove shall amount to an expression on the merits or demerits of the case.

Copy of the order be given Dasti, as prayed.

ANU MALHOTRA, J

MAY 22, 2018

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