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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ BAIL APPLN. 1186/2018 and CrI.M.A.9835/2018, CrI.M.(B)
863/2018

ANOOP KUMAR

..... Petitioner

Through: Mr. Puneet Mittal, Senior Advocate
with Mr. Rahul Malik, Adv.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Ashish Dutta, APP for the State
Respondent in person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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17.07.2018

The applicant and some of the relatives on his side were admitted to anticipatory bail by the court of Sessions in case FIR No.1329/2015 of Police Station Saket involving offences punishable under Section 308/34 IPC by order dated 18.05.2016, *inter alia*, on the basis of a memorandum of settlement entered into by the applicant on one hand and his wife on the other, she being the daughter of the victim. Concededly, a cross FIR No.1330/2015 was also registered in Police Station Saket respecting the same incident at the instance of the petitioner alleging offence under Section 325/34 IPC having been committed by the relatives of the wife. The parties, *i.e.*, petitioner and his wife admittedly are involved in a matrimonial dispute which has given rise other cases including another FIR under Section 498-A IPC and a case under the Protection of Women from Domestic Violence Act, 2005 which are pending at different stages.

The wife of the petitioner had moved an application seeking cancellation of anticipatory bail order dated 18.05.2016 on the ground that the petitioner had failed to abide by the terms and conditions of the memorandum of settlement as he was not allowing her to live in his house with her children and had also made defaults in payment of school fee, electricity charges, etc.

Accepting these submissions, the Additional Sessions Judge by order dated 12.03.2018 has cancelled the bail order granted on 18.05.2016 giving rise to the present application being moved before this court for restoration of the anticipatory bail.

In the above facts and circumstances, it is not proper to mix up the issues arising out of the claim of the wife against the petitioner on account of matrimonial dispute, such being subject-matter of the case primarily under Protection of Women from Domestic Violence Act, 2005 pending before the appropriate forum. The order whereby the anticipatory bail order has been recalled, therefore, cannot be approved of. It is set aside.

The anticipatory bail order granted by the court of sessions is revived.

The petition and the applications filed therewith stand disposed of with these observations.

R.K.GAUBA, J.

JULY 17, 2018
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