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

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Judgment delivered on: 28.08.2018

+ **BAIL APPLN. 1386/2018**

GOPAL JHA

..... Petitioner

versus

STATE GOVT OF NCT DELHI

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr.Manish Kaushik, Adv.

For the Respondent : Mr.Panna Lal Sharma, Addl. PP for the State with
SI Sonu Siwach, P.S.Sarai Rohilla.
Ms.Manika Tripathy Pandey, Adv. for
complainant.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

28.08.2018

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner seeks regular bail in case FIR No. 189/2018 under Sections 376/376D/506/34 IPC, Police Station Sarai Rohilla.
2. Petitioner has been in custody since 15.05.2018. The allegations made by the complainant are that her husband who was staying with her used to bring his friends and in his presence would permit them to make physical relations with her against her wish.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated. He submits that as per his instructions the husband of the complainant is not living with her for the last 3 to 4 years so the allegation that he while staying with her used to bring in his friends is falsified. He further submits that the allegation is that physical relation was made by the petitioner in the presence of her husband during the period October, 2017 to March, 2018 which is not substantiated in view of the fact that husband is not residing with her for the last 3 to 4 years. He further submits that the allegations are vague as no specific allegations or details have been given by the complainant in her complaint. He further submits that there is an unexplained delay in registering the FIR. It is contended that the petitioner had filed a complaint under Section 200 Cr.P.C alleging that the complainant was threatening to implicate him in a false case and was demanding money.

4. In the status report dated 07.07.2018 it is mentioned that investigation from the neighbours has shown that they have never seen the husband of the complainant in the last 3 to 4 years. In the status report filed on 02.08.2018 it is contended that investigation has shown that from the mobile number of the complainant, which is mentioned in the FIR by her, several calls have been made to the present petitioner lasting several hours every day. Said mobile number is registered in the name of petitioner.

5. Learned counsel appearing for the complainant has rendered some explanation with regard to the averments contained in the status report. However, I am of the view that it is for the Trial Court to consider the same after evidence is led and merely because something is stated in the status report would not be taken as evidence unless the same is proved in accordance with law.

6. Without commenting upon the merits of the case, on perusal of the record, I am satisfied that the petitioner has made out a case for grant of regular bail. Accordingly, on petitioner furnishing a bail bond in the sum of Rs.50,000/- along with one surety of the like amount to the satisfaction of the Trial Court, the petitioner shall be released on bail, if not required in any other case. The petitioner shall not do anything, which may prejudice either the trial or the prosecution witnesses. The petitioner shall not make any endeavour to contact the prosecutrix. The petitioner shall not leave the country without the permission of the Trial Court.

7. The petition is disposed of in the above terms.

8. Order Dasti under signatures of the Court Master.

SANJEEV SACHDEVA, J

AUGUST 28, 2018

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