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

+ **BAIL APPLN. 1899/2018**

KAMLESH KUMAR MAGNANI

..... Petitioner

Represented by: Mr. Puneet Mittal, Sr. Advocate with
Mr. Tanveer Ahmed Mir, Mr. Ishan
Shivakumar and Mr. Aditya Sharma,
Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Represented by: Mr. Ashok K. Garg, APP for State
with SI Richa Sharma, PS Punjabi
Bagh.
Complainant in person.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

10.10.2018

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1. By this petition, petitioner seeks bail in case FIR No. 77/2018 under Sections 376/328/509 IPC registered at PS Punjabi Bagh, New Delhi.
2. Learned counsel for the petitioner contends that the petitioner has been in custody now nearly for six months and after arguments on charge the prosecutrix has been substantially examined and cross-examined except for the report of CFSL which has not been received, when the prosecutrix would be recalled for her further examination and cross-examination. He further states that the petitioner is a doctor, who is doing DNB in Medicine and in case the petitioner does not join back his training programme, he would lose out on the essential requirement of minimum training and will not be able to appear in the examinations.

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3. Learned counsel for the petitioner further states that the petitioner will abide by all the conditions imposed by this Court and will be available for the trial.

4. Learned APP for the State, opposing the bail application, submits that the petitioner has committed serious offence as initially when the first act of rape was committed, there was no promise of marriage. It is only later thereafter that the petitioner promised to marry the complainant and on the said pretext continued to have sexual relationship with her.

5. In the above noted FIR the complainant alleged that she was working as a lab technician when she met the petitioner in May, 2017 for the treatment of her mother. It is at that stage that the petitioner became cordial to her and gave his mobile number so that as and when required the complainant could contact him for her mother's treatment. On the pretext of giving medicines the petitioner took her to his flat where he committed sexual intercourse with her forcibly and thereafter the petitioner called her several times and on the pretext of marriage established constant physical relationship. It is the case of the prosecutrix that her unwarranted photographs were taken and keeping the prosecutrix under the threat of the same, physical relationship was established. After going to the native place in Gujarat, the petitioner refused to marry the complainant and on the pretext that his parents were not agreeing for the marriage alliance.

6. In her statement recorded under Section 164 Cr.P.C. the prosecutrix reiterated her version. The prosecutrix has since been examined and cross-examined in Court except for the fact that the CFSL report is yet to be received and on receipt thereof, if any, further examination or cross-

examination is required the same will be carried out.

7. Considering the fact that material witness, that is, the prosecutrix has been examined and that if the petitioner is not released at this stage completion of his DNB course would get hampered, this Court deems it fit to grant bail to the petitioner. It is, therefore, directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, further subject to the condition that the petitioner will not leave the country without prior permission of the court concerned and in case of change of residential address the same will be intimated to the Court concerned by way of an affidavit.

8. Petition is disposed of.

9. Order dasti.

MUKTA GUPTA, J.

OCTOBER 10, 2018

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