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

\+ BAIL APPLN. 1908/2018

SH. NILOY KR. PANDE ..... Petitioner

Through: Mr. Prag Chawla with Ms. Kanika Baweja, Mr. Sudeep Sudan & Mr. Abhijeet Singh Baweja, Advs.

versus

THE STATE (GOVT. NCT OF DELHI) ..... Respondent

Through: Mr. Amit Ahlawat, APP for the State with W/SI Sushil Yadav, PS Prashant Vihar.
Mr. Siddhartha Nanwal, Adv. for complainant alongwith complainant in person.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

O R D E R

% **05.10.2018**

In the first information report no. 331/2018 of police station Prashant Vihar allegations have been made against the petitioner they constituting offences punishable under Sections 376/506 of Indian Penal Code, 1860 (IPC). The first informant (the complainant) is present in court with her counsel at the hearing today. As per her allegations, she had been repeatedly raped by the petitioner, he having promised to marry her, it later being revealed that he was a married person with grown up children born out of such marriage. The complainant has also alleged criminal intimidation having been indulged in by the petitioner when she confronted him with certain facts. She also alleges that the petitioner had taken money from him in several parts of total value of Rs. 55 lakhs.

Against the above backdrop, submissions to the contrary were made by the petitioner, which were recorded with certain observations and directions in the proceedings recorded on 16.08.2018 which read thus:-

> "*Heard. Perused.*
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> *One of the grounds on which the petitioner terms the allegations in the FIR to be false is that the relationship between him and the prosecutrix was of commercial nature, this sought to be supported, inter alia, by two cheques both dated 30.06.2018, one of Rs.16 lakhs and the other of Rs.22,07,000/- each of which, upon being presented, was returned unpaid by the banker of the prosecutrix on 11.07.2018 for reasons "funds insufficient". It appears the prosecutrix when confronted with this material during the investigation has sought to explain that these were signed cheques which she had kept in her cheque book which was "lost" and upon learning about this she had instructed the bank "stop payment". The instructions to the bank apparently were sent after the cheques in question had been dishonoured. It is the submission of the petitioner that the cheques in entirety including the name of the petitioner and the value of the cheques were filled in by the prosecutrix herself. The Investigating Officer, on being asked, submits that the prosecutrix on being questioned has only admitted her signatures on these cheques but no questions have been asked of her as to whether the rest of the contents of the cheques were filled in by her in her own hand or by someone else.*
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> *The petitioner also relies upon a sale deed purportedly executed and registered on 06.04.2018 whereby the prosecutrix had acquired a property, for consideration, the petitioner herein being an attesting witness thereto, this purportedly occurring on the very next day after she is alleged to have been "raped" in a hotel.*
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> *The petitioner further relies on a statement of his bank account which shows a number of transfers of money from his account to that of the prosecutrix, crucially the last one*

referred to being a transaction which occurred on 05.04.2018 (the day of alleged rape) in the sum of Rs.15,20,000/-. On being asked, the Investigating Officer submitted that though she had questioned the prosecutrix about this material, she was not interested in discussing such matter. She, on being asked, clarified that the questioning of the prosecutrix and the disinterest showed by her in discussing such transactions has not been mentioned by her in the case diary.

The Investigating Officer is expected to carry out a fair and impartial probe. For this, the explanations and the position taken by the person against whom allegations have been made in the FIR will also have to be taken into account and an effective probe made thereinto, the purpose and object of the investigation process being to search for the truth.

The Investigating Officer is directed to carry out further investigation which hopefully would be more effective and comprehensive and make a further report on the next date. The Station House Officer would guide her properly in the task.

Till then, the petitioner will not be arrested, this, however, subject to he joining investigation as and when called upon by the Investigating Officer.

Be listed on 5th October, 2018.

Dasti".

Further status report has been submitted by the investigating officer, it, *inter alia,* stating that the complainant has not been cooperative with the investigation, she avoiding joining it on the pretext of she being pre-occupied with her professional work.

Be that as it may, the statement of the prosecutrix (complainant) recorded in the afternoon of 04.10.2018 in question and answer form has been submitted for perusal. As per the answers given to the questionnaire by the complainant she admits her signatures on four leafs of cheques but denies having filled in the amounts. In answer to the questionnaire she admits she does not have any proof of payments made to the petitioner. Noticeably, she would not say anything about the name of the payee in the said cheques. She also concedes that the petitioner had assailed at the time of purchase of the property, her explanation being that she had taken his assistance because she had entered into a marriage ceremony with him not knowing that he was a married person.

The matter would need further investigation which will take some time to conclude.

Having regard to the above-mentioned facts, circumstances and documents showing possibility of the complainant herself having received money from time to time from the petitioner, there being no proof at this stage of she having given him any money, the prayer in the bail application is granted. Thus, it is directed that in the event of the petitioner being arrested, he shall be released on bail by the arresting officer on furnishing personal bond in the sum of Rs.50,000/- with one surety in the like amount subject to the following further conditions:-

(i) The petitioner shall continue cooperating with the investigation and join the same as and when called upon to do so;

(ii) The petitioner shall not come in contact with or try to influence any of the witnesses connected to the case;

(iii) Prior to his release, he shall give the telephone numbers of self and of at least one other responsible family member besides that of the surety to the investigating officer;

(iv) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence;

This order will inure only till the date of first appearance of the petitioner in the event of a charge-sheet being filed on conclusion of the investigation and process being issued against him by the court of cognizance.

The petition stands disposed of in above terms.

Dasti under the signatures of Court Master.

R.K.GAUBA, J

OCTOBER 05, 2018
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