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

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Judgment delivered on: 24.04.2018

+ BAIL APPLN. 1204/2017

NITIN MEWARI

..... Petitioner

versus

THE STATE (GNCT OF DELHI)

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Rajiv Khosla with Mr. Himanshu Gupta,
Advocates.

For the Respondents : Mr. Arun Kumar Sharma, APP for the State.
Mr. Naveen Kumar Singh, Advocate for the
complainant.
SI Harpal Singh, PS Paharganj.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

24.04.2018

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks anticipatory bail in FIR No.87/2017 under Sections 376/506 IPC, Police Station Pahar Ganj.
2. The allegations against the petitioner are that the prosecutrix as well as the petitioner were known to each other for last over five years. The petitioner is alleged to have entered into a physical relationship with the prosecutrix on the false promise to marry. The FIR alleges that both the parties belong to the same caste and, as such, their families would have no objection to the marriage. It is contended that on one day in the year 2015, the petitioner is alleged to have asked

the prosecutrix to come to Delhi for the purposes of marriage. Thereafter, he is alleged to have made physical relationship without her consent. The FIR further alleges that the prosecutrix as well as the petitioner went back to their native village and several times travelled to Delhi where the prosecutrix is alleged to have stayed with the petitioner in a rented accommodation for considerable periods of time. It is alleged that the petitioner thereafter refused to get married to the complainant and even demanded dowry from her.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated and, as per the allegations, the relationship was consensual. He further submits that the allegation in the FIR that forceful relationship was made on 03.01.2015 is falsified by the fact that the petitioner had appeared in an examination on 04.01.2015 between 2 to 4 pm. He further submits that there is gross unexplained delay in lodging the complaint.

4. The petitioner was granted interim protection and directed to join investigation by order dated 21.06.2017.

5. Learned APP for the State submits that the petitioner did join investigation, however, did not make necessary disclosures and answer the questions put by the Investigating Officer.

6. Per contra, learned counsel for the petitioner submits that the petitioner cannot be forced to answer self incriminating questions and cannot answer question which are contrary to facts. He further submits that the contention that IO has still to identify the places where the petitioner is alleged to have stayed with the prosecutrix, is contrary to the allegations. The prosecutrix is alleged to have mentioned one of the addresses in the FIR and since she is alleged to have stayed with the petitioner for several months at those places, she would be able to point out the same and no effort has been made to question the prosecutrix qua the

same. He submits that there is no question of the petitioner not cooperating with the Investigating Officer.

7. Without commenting upon the merits of the case, perusal of the record shows that the petitioner has made out a case for grant of anticipatory bail. The petitioner is not alleged to have violated the conditions of the interim protection. No ground has been made out for custodial interrogation of the petitioner.

8. In view of the above, in the event of arrest, the petitioner shall be released on bail by the Arresting Officer/Investigating Officer/SHO on furnishing bail bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the arresting officer/Investigating Officer/SHO.

9. The petitioner shall not do anything which shall prejudice either the trial or the prosecution witnesses. The petitioner shall not make any attempt to contact either the prosecutrix or her family members. The petitioner shall also not leave the country without the permission of the Trial Court. The petitioner shall further appear before the Investigating Officer, as and when so required by the Investigating Officer.

10. The petition is, accordingly, disposed of in the above terms.

11. Order *Dasti* under the signature of the Court Master.

SANJEEV SACHDEVA, J

APRIL 24, 2018
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