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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2249/2018 & CrI. M.A. No. 32929/2018

AMAN BHARDWAJ

..... Petitioner

Through: Mr. Sanjeev Kumar, Advocate.

Versus

THE STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Mr. G. M. Farooqui, Additional Public
Prosecutor for State with SI Tasbir,
P.S. Swaroop Nagar.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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26.09.2018

The petitioner's application for anticipatory bail in a case bearing FIR No. 323/2018, registered under sections 376/377/34 IPC at Police Station Swaroop Nagar, Delhi, on the allegations:-

“ That FIR in the present case was registered on 19.08.18 on the basis of statement made by victim "T" wherein the victim has alleged that she was married to accused Nitin on 02.02.18 and it was her second marriage. She further alleged that out of her first wedlock, she is having one child, aged about 3 years. She further alleged that since after two months of her marriage with Nitin, Nitin and his younger brother Aman started quarrelling with her and started giving beatings to her. She further submitted that her husband Nitin has been running a car during night hours in a call centre and due to his job, her husband Nitin used to remain outside the house during night hours. She further alleged that day before yesterday i.e. 17.08.18, her mother-in-law Renu Sharma, sister-in-law Reena and brother-in-law Aman as well as she and her minor child were sleeping on the roof of their room. She further alleged that on or about 3.00 a.m. her sister-in-law

went downstairs as she was suffering from headache. She further alleged that at that time her brother-in-law i.e. accused Aman made forcible physical relations with her. She further alleged that she tried to narrate the occurrence to her husband but her husband quarrelled and gave beatings to her. She further alleged that her husband i.e. accused Nitin had also been making forcible unnatural sex with her. She further alleged that her husband i.e. accused Nitin and her brother-in-law i.e. accused Aman after consuming liquor used to give beatings to her.”

The Trial Court had reasoned that the allegations being grave and the investigations too being at the initial stage, no ground for anticipatory bail was made out, hence, it rejected the application.

The statement of the complainant was recorded on 20.08.2018, in which she has re-iterated her complaint.

The learned counsel for the petitioner submits that the commission of the offence was an impossibility, since her mother-in-law too was sleeping on the roof i.e. in the vicinity of the complainant. However, The Court would note that as recorded in the FIR, the sister-in-law had gone downstairs in the middle of the night, when the alleged offence was committed by the petitioner.

The learned counsel for the petitioner fairly submits that the said complaint is a retaliation to an earlier altercation between the complainant's brother and the sister of the accused. The said complaint was filed on 19.08.2018; her statement under section 164 Cr.P.C. was recorded on 20.08.2018 and the FIR No.329/2018 registered under sections 341/323/354/34 IPC at Police Station Swaroop Nagar, Delhi, against the complainant was lodged by the petitioners on 24.08.2018. He further submits that there is no allegation under section 354 IPC, let alone any

allegation of section 376 IPC. Hence, the so-called retaliatory complaint is hardly made out.

Be that as it may, in the aforesaid circumstances, the Court is not inclined to grant anticipatory bail to the petitioner. The petition, alongwith pending application, is dismissed.

NAJMI WAZIRI, J.

SEPTEMBER 26, 2018

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