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

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Judgment delivered on: 12.01.2018

+ BAIL APPLN. 1850/2017

PARAG BANSAL & ORS

..... Petitioners

versus

STATE

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Mandeep Singh Vинаik with Ms.
Anjali Sharma, Mr. Shashwat
Bhardwaj and Mr. Manish Lamba, Advocates.

For the Respondents : Mr. Akshai Malik, APP
SI Baljinder Singh, PS Darya Ganj.
Mr. Rajiv Khosla, Advocate for
complainant.

**CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA**

**JUDGMENT
12.01.2018**

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioners seek anticipatory bail in case FIR No.165/2017 though initially registered under Section 354/323/506/34 IPC, Police Station, Darya Ganj. However, subsequently, a charge under Section 376 IPC has also been added qua petitioner Vishal Bansal and petitioner Puneet Bansal, the brothers of the husband of the complainant.

2. The FIR initially registered was on the complaint of the complainant alleging that the petitioners had called her to Mahavir Vatika, Darya Ganj to discuss an amicable resolution of matrimonial dispute, which was pending between the parties. The FIR alleges that the petitioner assaulted the complainant and misbehaved with her, within the meaning of Section 354 of IPC.

3. Learned counsel for the petitioners contends that the complainant is an advocate by profession and, because a matrimonial discord, had first lodged a complaint with the Crime Against Women Cell on 02.08.2017 alleging demands of dowry. It is contended that the marriage between the petitioner No.1 and the complainant was solemnized on 07.12.2015 and, since 16.07.2016, they have been living separately.

4. It is further contended that after lodging a complaint with the Crime Against Women Cell, a complaint was lodged under Section 12 of the Protection of Women from Domestic Violence Act, 2005. Thereafter, consequent to complaint made on 02.08.2017, FIR No.35/2017 was registered against the petitioners and his family members on 28.01.2017 under Section 498A/406/34 IPC. The petitioner No.1 was enlarged on anticipatory bail on 22.05.2017, in case FIR No.35/2017. It is contended that the complainant thereafter filed an application under Section 125 of the Code of Criminal Procedure against the petitioner No.1 on 01.06.2017. Thereafter, the subject FIR was lodged qua the alleged incident on 10.07.2017.

5. Learned counsel for the petitioner points out that the FIR notices that at the spot when the police officials arrived, crowd had already assembled. It is further submitted by learned counsel for the petitioners that none of the above referred complaints starting from the first complaint lodged on 02.08.2016, no allegation was made against the petitioners of having committed the offence under Section 376 IPC. It is contended that, for the first time, on 17.07.2017, the complainant made a statement under Section 164 IPC making allegations of offence under Section 376 having been committed by the petitioners Vishal Bansal and Puneet Bansal on 10.07.2017 and earlier.

6. It is contended that all allegations are false. The complainant, who is well educated and is practicing as an Advocate and aware of her rights, has sought to improve upon her story, to falsely implicate the petitioners. It is further contended that interim protection was granted to the petitioner on 14.09.2017, which is continuing till date and none of the petitioners have misused the same.

7. Without commenting upon the merits of the case of either of the parties but noticing the undisputed fact that the allegation of offence under Section 376 IPC having been committed is not mentioned in any of the complaint, lodged after 02.08.2016 till 17.07.2017, and without opining on the explanation of the respondent for its absence, I am of the view that the petitioners are entitled to the grant of anticipatory bail. Furthermore, it is noticed that the petitioners have not misused

the protection granted earlier and there is no allegation that they have failed to join investigation as and when called upon to do so.

8. In view of the above, in the event of arrest of the petitioners, the petitioners shall be released on bail by the Investigating Officer/SHO/Arresting Officer on petitioners furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the Investigating Officer/SHO/Arresting Officer concerned. The petitioners shall join investigation as and when so required by the Investigating Officer and the petitioners shall ensure that they do nothing which shall prejudice the process of investigation or the trial.

9. Order *Dasti* under the signatures of the Court Master.

JANUARY 12, 2018
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SANJEEV SACHDEVA, J