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

+ **BAIL APPLN. 2362/2019**

DEEPANSHU GARG @ DABBU

..... Petitioner

Through: Dr. Anurag Kumar Agarwal, Mr.
Umesh Mishra, Mr. Dhananjay
Pandey and Mr. Tushar Parashar,
Advocates

versus

STATE

.....Respondent

Through: Mr. Sanjeev Sabharwal, APP for State
with ASI Neelam PS Aman Vihar,
Delhi
Mr. Gurmehar Sistani, Mr. Samit
Khosla, Mr. Kapil Goyal and Mr.
Raghav Sachdeva, Advocates for the
complainant

CORAM:

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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19.09.2019

CRL.M.A. 36240/2019 (Exemption)

Allowed subject to all just exceptions.

BAIL APPLN. 2362/2019

1. This is an application moved under Section 438 read with Section 482 Cr.P.C. for grant of anticipatory bail, by the applicant/Deepanshu Garg @ Dabbu, having been named as an accused in the FIR No.257/2017, under Sections 498-A/354/406/34 IPC, P.S. Anand Vihar, Delhi.

2. The applicant is the brother-in-law (*Devar*) of the complainant.

3. Dr. Anurag Kumar Agarwal, learned counsel for the

petitioner/applicant submitted that the complaint was a false one and was a belated one to harass the applicant and the other family members and has pointed out to the list of dates to submit that the complaint was filed with CAW Cell on 31.01.2017 and the FIR registered in November, 2017, after the brother of the applicant/husband of the complainant-Sunil Garg, had filed a divorce petition in the Family Court, Gurgaon on 01.07.2016.

4. Learned counsel, Dr. Anurag Kumar Aggarwal has further pointed out that the other allegations made by the complainant against the applicant, that on 10.03.2014, he alongwith his parents and his brother had beaten the complainant and that on 05.04.2014, their uncle, Sh. Ramesh Garg had threatened her with a pistol, were falsified in the light of the railway tickets produced by the applicant to show that he was out of Delhi between 8th March, 2014 and 8th April, 2014 and the extracts of the log book would show that the uncle was away on duty outside Delhi which would also cast a shadow of doubt on the rest of the story of the complainant. It was also submitted by the learned counsel that though the police came to know of the alleged offence under Section 354 IPC on 31.01.2017, the statement of the complainant was got recorded under Section 164 Cr.P.C. only in August, 2019 i.e. after two years and three months after lodging the FIR. This also raised questions over the truthfulness of the allegations. On all these grounds, the learned counsel submitted that the applicant was entitled to bail.

5. On the other hand, Mr. Gurmehar Sistani, learned counsel for the complainant and Mr. Sanjeev Sabharwal, learned Additional Public Prosecutor for respondent/State have opposed the bail application by submitting that the applicant had not co-operated with the investigations and

therefore, the police require to have his physical custody and interrogate him. It was explained that the reason why the FIR was registered with some delay and the statement was subsequently recorded under Section 164 of Cr.P.C. also with some delay, was on account of the fact that the complainant was conscious of maintaining her matrimonial relationship and cordiality with the family and it was only when her husband indicated that he was breaking the relationship on a permanent basis that she ventured to complain to the police. Further, as the parties were trying to work out an amicable resolution to the matrimonial problems, she did not wish to precipitate the matter by recording her statement under Section 164 Cr.P.C.

6. I have heard Dr. Anurag Kumar Agarwal, learned counsel for the accused/applicant, Mr. Gurmehar Sistani, learned counsel for the complainant and Mr. Sanjeev Sabharwal, learned Additional Public Prosecutor. Though nothing much would turn on the submission that there was delay in recording the statement under Section 164 Cr.P.C. as the complainant has given a reasonable explanation for any delay, nevertheless, in the facts of the present case, it is considered appropriate to allow the application and grant anticipatory bail to the applicant for the following reasons: (i) the applicant is the brother-in-law of the complainant; (ii) the allegations constituting the offence under Section 354 IPC occurred in 2013 and there is no allegation of a repeat offence; (iii) with regard to alleged beating of the complainant on 10.03.2014 by the applicant, the railway tickets *prima facie* present an *alibi*; (iv) the case diaries do not reveal that the accused/applicant is not participating in the investigations; (v) no custodial interrogation is called for merely for production of the original railway tickets as it is open to the Investigating Officer to verify the

authenticity of the railway tickets through the Railway Authorities even without custodial interrogation of the accused/applicant; (vi) there is no indication that the accused/applicant shall abscond or in any other way interfere with the investigations.

7. The application is allowed and it is directed that in the event of the arrest of the petitioner/applicant-Deepanshu Garg @ Dabbu, the SHO concerned shall release him on bail on his furnishing a personal bond and a surety bond in the sum of Rs.1 lac each to the satisfaction of the SHO concerned, with the further condition that the applicant/accused will not leave the country without the prior permission of the Illaqa Magistrate/the Trial Court, as the case may be.

8. Nothing contained herein will be a reflection on the merits of the case.

9. The application is accordingly disposed of.

Dasti to all parties.

ASHA MENON, J

SEPTEMBER 19, 2019

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