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

+ BAIL APPLN. 290/2019, CRL.M.A. 2527/2019

JAIDEEP TANDAN

..... Petitioner

Through: Mr. Prabhjit Jauhar and Ms.
Aishwarya, Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. G.M. Farooqui, APP for State
with SI Mahender Singh, PS-CAW
Cell.
Mr. Sahil Munjal and Ms. Rhea G.
Munjal, Advocates for complainant.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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04.02.2019

The petitioner seeks anticipatory bail. The same was declined by the Trial Court because no FIR has been registered against him. The *lis* pertains to a matrimonial dispute. The petitioner's estranged wife has filed a complaint after six years of separation and after filing of the Divorce Petition in the year 2018. The parties have appeared before the police, in an endeavour to settle the *lis* amicably. The learned counsel for the petitioner states that the learned Trial Court has erred in not granting the anticipatory bail because the liberty of an individual is most dear to him and should be protected from infraction by any governmental agency. He relies upon the following judgments:

(i) ***Sanjeev Kohli & Ors. vs. State*** 2005(1) JCC 510. The relevant

para reads as under:-

“Accordingly, this application is disposed of with the direction that in the event an FIR is registered against the present petitioners in respect of the complaint referred to in the notice bearing No. R-13/CAW-CELL/NW Delhi, Pitam Pura issued on 9th March, 2005, which is at page of the paper book the petitioners shall be given seven days notice prior to their arrest”.

- (ii) **Prem Wati vs. State** 93(2001) DLT 646. The relevant para reads as under:-

“4. In the facts and circumstances of the case, it is ordered that whenever FIR is registered and petitioner is sought to be arrested, she would be given seven days’ time in writing. Petitioner shall participate and co-operate in the investigation, as and when required.

- (iii) In **Sumeet Chhabra v. State of Delhi** in Bail Appl. No. 1541/2009 order dated 10.08.2009. The relevant para reads as under:-

“3. Learned APP for the State has also supported the contention made by the learned counsel for the respondent. I have considered the rival contention and gone through the order passed by the learned ADJ, I am satisfied that this is a case where the petitioner ought to be given some reasonable notice after registering an FIR although there is a probation (sic provision) of arresting an accused only after obtaining the prior approval of the ACP/DCP. Accordingly, in the facts and circumstances of the case, the IO /SHO concerned shall give 48 hours notice to the petitioner after the registration of the FIR so as to enable him to move the Court for such relief as he may deem fit”.

(iv) In ***Saurabh Ajit Nerukar vs. State through SHO Mandir Marg New Delhi*** in Bail Appln. 1304/2014 decided on 30.05.2014.

The relevant para reads as under:-

“Five days advance notice shall be issued to the petitioner’s counsel Mr. Prabhjit Jauhar, N-41, Connaught Circus, New Delhi, Mobile No. 9811139939, in the event of arrest of the petitioner, in case FIR under Sections 406/498A IPC is registered against the petitioner on the complaint of the complainant pending before CAW Cell. The petitioner shall, however, join the investigation as and when required”.

The petitioner states that he is ready and willing to join in all such efforts as may be. However, he apprehends that his liberty may be curtailed by the police. In view of the above, should there be a decision to take the petitioner into custody, he shall be given three days’ prior notice.

The petition is disposed-off in the above terms.

NAJMI WAZIRI, J

FEBRUARY 04, 2019

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