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

+ BAIL APPLN. 681/2019

KUNDAN KUMAR

..... Petitioner

Through:

Mr. Lokesh Kumar Mishra with  
Ms. Arti Baghel and Mr. Himanshu  
Sharma Advocates.

versus

STATE GOVT. OF NCT OF DELHI

..... Respondent

Through:

Mr. Tarang Srivastava, APP for the  
State with SI Manoj Kumar Tomar,  
PS Mayur Vihar

**CORAM:**

**HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL**

**ORDER**

**05.04.2019**

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The present petition has been filed under Section 438 of Code of Criminal Procedure 1973 seeking grant of anticipatory bail in F.I.R No. 297/2018 under Section 376/506 of Indian Penal Code, 1860 (hereinafter referred as 'IPC') registered at Police Station Mayur Vihar, Phase 1, New Delhi on the ground that the FIR has been lodged after a delay of 2 years and 3 months and there is no medical and scientific evidence on record to substantiate the allegation of rape and penetrative sexual assault.

Mr. Lokesh Kumar Mishra learned Counsel for the petitioner contended that the petitioner is willing to join the investigation and undertakes to do so as and when required and undertakes not to tamper any evidence or influence any witness.

Mr. Tarang Srivastava learned APP for the State vehemently opposed the anticipatory bail application of the petitioner and submitted that the allegations against the petitioner are serious in nature and in view of the nature and gravity of the alleged offence, the present petition for anticipatory bail be dismissed.

Heard

The brief facts of the case are that the aforesaid FIR was registered by Ms. Anita Chaudhary W/o Late Ravi Chaudhary against Mr. Kundan Kumar Shah/present-petitioner, where she alleged that in September 2016 she met with the petitioner through some of her known person, wherein the petitioner assured her a good placement in an office. Consequently, the petitioner started visiting her frequently. On 15.11.2016 at about 10:00pm the petitioner arrived at her house on the occasion of his birthday and on the pretext of marriage the petitioner raped her and took her obscene photographs and made video. Thereafter, the petitioner threatened her for posting the obscene photographs and video on the net and repeatedly raped her on different occasions.

The perusal of the record shows that there is an inordinate delay in lodging the FIR. The present incident occurred on 15.11.2016 and FIR was registered on 06.08.2018. It would be worthwhile to mention that being the victim of such a reprehensible crime the complaint should have been lodged at the earliest possible. It is relevant to mention herein that in the present case the prosecutrix has refused for her internal examination.

The mobile phone (*Samsung & Oppo Mobile Set*) of the petitioner have been seized on 06.03.2019 by the Investigating Officer and after examination it was reported that no obscene photographs or videos of the prosecutrix were discovered from the seized mobile phones.

Keeping in view the facts and circumstances of the case, it is hereby directed that in the event of arrest till filing of the chargesheet, the petitioner, Kundan Kumar be released on bail on the following terms and conditions: -

- (i) That the petitioner shall furnish a personal bond in the sum of Rs.25,000/- with one surety of the like amount subject to the satisfaction of Arresting Officer/SHO concerned;
- (ii) That the petitioner shall cooperate with the investigation and make himself available for interrogation by police officer, as and when required.

In case of default of aforementioned condition, the State is at liberty to take appropriate recourse in accordance with law.

Before parting with the order, it is relevant to mention that nothing contained in this order shall be construed as an expression on the merits of the case.

Application stands disposed of.

Copy of the order be given dasti under the signatures of Court Master.

**SANGITA DHINGRA SEHGAL, J**

**APRIL 05, 2019**  
**gr**