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

+ **BAIL APPLN. 2187/2019**

SUBHASH

..... Petitioner

Through: Ms. Nita Sukhanandi, Mr. Varun
Thakur and Mr. Brajesh Pandey,
Advs.

versus

STATE

..... Respondent

Through: Mr. Tarang Shrivastava, APP for State
with SI Khushboo Singh, PS –
Kalyanpuri, Delhi

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

02.09.2019

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CRL. M.A. 34890/2019

Allowed, subject to all just exceptions.

Application is disposed of.

BAIL APPLN. 2187/2019

Vide the present petition, petitioner seeks anticipatory bail in connection with FIR No. 346 of 2019 dated 25.07.2019, registered at Police Station Kalyanpuri, Delhi for the offences punishable under Section 354-A I.P.C. and Sec.10 POCSO Act.

It is stated in the petition that the petitioner asked the complainant's sister (his wife) as to why complainant is not leaving his house though the

summer vacation has already ended. Accordingly, the petitioner pressurized his wife for sending the complainant to her home, the complainant said that she will leave for her house once the ritual of '*Chatti*' for completed of the daughter of the petitioner.

On 14.07.2019, again the petitioner asked his wife as to when the complainant will leave for her home, to which his wife shouted at the petitioner that the complainant will reside at the house of the petitioner till his wife resides in her matrimonial home. The petitioner asked his wife to send the complainant back to her house by evening and left the house for attending his work in the morning.

The petitioner came back to his house at around 9 PM on 14.07.2019 and saw the complainant was still there and had not returned back to her house. The petitioner asked his wife (the complainant's sister) as to why the complainant had not returned back to her house. On this, his wife got angry and shouted on the petitioner that the complainant will reside with her till the petitioner gets the partition of the house done and transfer the same to her name.

That on around 10.30 PM, the petitioner called his father on his mobile phone for his help and told him that his wife and her sister (the complainant) have started a quarrel in his house. At 11.00 PM, the petitioner's father came at his house and saw his daughter-in-law (the complainant's sister) and the complainant shouting angrily and using very filthy/ abusive language towards the family of the petitioner and also threatened the father of the petitioner that if the property would not be transferred in her name she will file heinous cases against them and will send whole family to the jail.

After hearing the abovementioned threats, the father of the petitioner left the house at around 11.30 PM. Thereafter, around 11.30 PM to 12.00 AM in the night of 14.07.2019, the wife of the petitioner dialled at 100 number from her mobile phone to register a fake harassment incident and again dialled another call to her relatives (*mayeke*) to reach her matrimonial home. Around 12.15. AM, the PCR came and took the petitioner and his mother to the police station Kalyapuri in the PCR vehicle from his house, which can also be verified from the neighbours of the petitioner and CCTV camera installed in the area.

The complainant's family reached the police station and started quarrelling at the police station in the presence of the police officials of the P.S. Kalyanpuri. This fact has been verified by the CCTV cameras installed in the police station.

Thereafter, the complainant and her sister namely Shugunna (petitioner's wife), Babu, Aunt Arti and one Smt. Raju jointly beat up the petitioner's mother in the premises of the police station. The police officials intervened between the family of the petitioner and the complainant. It is further submitted that on 18.07.2019, the petitioner made two complaints in the police station regarding the threats given by the complainant and her family members in his house.

He further submits that on the instructions of the police officials of the P.S. Kalyanpuri, the petitioner and his father reached the Mediation Centre of Patparganj at around 11.00 AM on 22.07.2019 but the complainant and her family members failed to reach the mediation centre.

Learned counsel further submits that the wife of the petitioner and

complainant have made a false and concocted complaint for registration of the present FIR and statement of the prosecutrix are result of afterthoughts.

Learned counsel appearing on behalf of the petitioner further submits that if the incident had taken place on 14/15.07.2019, why did the said incident was not mentioned in complaint dated 18.07.2019. He submits that the complaint is an afterthought and the petitioner has a prima facie case for anticipatory bail.

Learned APP for State has opposed the present petition. However, he did not dispute the fact that in the complaint dated 18.07.2019, there is no mention of the incident in the present FIR.

Keeping in view the facts and circumstances of the case, this Court is of the considered view that the present case is fit for the grant of anticipatory bail. The SHO/ Arresting Officer concerned, is hereby directed that in the event of arrest in FIR No. 346 of 2019 dated 25.07.2019, registered at Police Station Kalyanpuri, Delhi for the offences punishable under Section 354-A I.P.C. and Sec.10 POCSO Act, the petitioner/ applicant be released on bail on the following terms and conditions:-

(i) That the petitioner shall furnish a personal bond in the sum of ₹15,000/- with one surety in 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 conditions, 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 this order be given *dasti* under the signatures of Court Master.

SURESH KUMAR KAIT, J

SEPTEMBER 02, 2019

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