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

Date of decision: 18.09.2019

+ **BAIL APPLN. 2336/2019**

RAHUL SINGH

..... Petitioner

Through: Mr. Sugam Kumar Jha, Ms. Tanu
Priya Gupta and Ms. Shailja Gupta,
Advs.

versus

STATE

..... Respondent

Through: Mr. Hirein Sharma, APP for State
with ASI Asha Bisht, PS – Chanakya
Puri
Mr. Girdhar Govind and
Mr. Baljinder Singh, Adv. for
complainant/ prosecutrix

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

1. Vide the present application, the applicant/ accused seeks directions thereby to be released on bail in the event of his arrest in connection with FIR No. 87/2019 registered at Chanakyapuri Police Station for the offences punishable under Sections 376/506 IPC on such terms and condition as this Court may deem fit and proper.

2. Learned counsel appearing on behalf of the applicant submits that the applicant and prosecutrix used to go out for late-night dinners and parties and in most cases, the applicant used to pay for the outings. When the applicant used to meet his colleagues, the prosecutrix always insisted on accompanying him. It reached an extent that it used to be very uncomfortable for the applicant to see the prosecutrix alone amongst men in an intoxicated state. There have also been incidents when the applicant showed his discomfort towards the same and the prosecutrix used to abuse the applicant alleging him to be a narrow-minded man who does not deserve anyone's love.

3. It is further submitted that the prosecutrix and applicant got physically involved as the applicant was in severe depression due to the medical condition of his mother and the pending divorce proceedings with his wife. The prosecutrix took such a gesture of the applicant as that of true love and never questioned his intentions.

4. Subsequently, as the demands of the prosecutrix started growing and when the applicant was unable to fulfil them due to shortage of money, their relationship started to turn sour. It went to such an extent that the applicant was humiliated in public by the prosecutrix and words like '*kadka*' and

‘nanga’ were used against him. The prosecutrix used to abuse the mother of the applicant as well, even though at the beginning of the relationship she encouraged the applicant to spend more time with her. Subsequently, she started asking the applicant why he is spending so much on her medicines considering her age.

5. Learned counsel further submits that the physical relations between the applicant and the prosecutrix were consensual and section 376 IPC does not attract in this case.

6. On the other hand, learned APP appearing on behalf of State submits that the petitioner was married, however, he still gave false promises of marriage to prosecutrix and, accordingly, she agreed to have physical relations. He further submits that the applicant was not supposed to conceal marriage and should not have given false promises to many to the prosecutrix. The prosecutrix had physical relations with applicant on false promise, but on one day, as per the statement recorded under Section 164 Cr.P.C., the applicant gave beer to her which was spiked with some intoxication and at that point of time, when she was not in her senses, the applicant took advantage of that and had sexual intercourse with prosecutrix without her consent.

7. The FIR mentioned above is registered on the basis of written complaint of the prosecutrix. She stated in the complaint that in the month of January, 2019, when she was working at PVR Chanakyapuri, at around 7.00 -7.30 PM, one person, namely, Rahul Singh (applicant herein), came to her and told her that he was not feeling well due to stomach pain. So, as per her duty, she gave him luke warm water and then he requested for ENO. She requested her staff to get the ENO medicine and they gave him the same. After few days, the applicant sent her a message on facebook messenger by stating '*Thank you 'S'. you helped me*'.

8. After few days, the applicant again came to PVR Chanakyapuri Cinema and he personally spoke to her and thanked her and he also told her that he was working with MPs (Members of Parliament) and after talking for a while, they both became good friends and exchanged their numbers. Applicant used to visit the prosecutrix at her office to pick and drop her and they both used to have lunch together almost everyday.

9. In the month of March, 2019, applicant proposed the prosecutrix for marriage at India Gate. She trusted him. As he kept a very warm and loving behaviour towards her, she accepted his marriage proposal. At first, the applicant took her to his friend's place (home) at Chanakya Puri and got

intimate with her. After that applicant used to take her to different OYO Rooms at various times and got physical with her. On 10.03.2019, applicant took the prosecutrix to the Eros Garden OYO Rooms and made physical relations with her. Thereafter, he regularly took her to the OYO Rooms i.e. 13.03.2019, 20.03.2019, 31.03.2019 and he had physical relations with her everytime. In the month of May, 2019, applicant took the prosecutrix to the OYO Room and on that day, the prosecutrix asked applicant as to when they were getting married, to which the applicant replied that they will marry in the month of November or after Diwali. However, on 29.06.2019, the prosecutrix came to know that she was pregnant and she immediately informed to the applicant in reply to which he asked her not to worry and advised her to take contraceptive pill. Afterwards, he came and gave her some contraceptive pills for not conceiving. On 04.07.2019, applicant and the prosecutrix also stayed in OYO, NFC. On 31.07.2019, applicant took the prosecutrix to OYO Kapoor Inn in Greater Kailash and again, they had physical relations. On that night, the prosecutrix came to know that the applicant was already married with a girl 'P' and his divorce case was also going on. Thus, he had physical relations with her on the pretext of marriage and had raped her thereon.

10. On the basis of written complaint made by the prosecutrix, the FIR in question was registered against the applicant. But, fact remains that the applicant and the prosecutrix had frequent physical relations at different hotels and at different places. Even on 31.07.2019, when she came to know that applicant was married, they had physical relations with each other.

11. In view of above facts without commenting on the merits of the case, I am of the view that the applicant is entitled for anticipatory bail.

12. Accordingly, the SHO/Arresting Officer/IO concerned, is hereby directed that in the event of arrest, the petitioner/ applicant be released on bail on the following terms and conditions:-

(i) That the applicant shall furnish a personal bond in the sum of ₹25,000/- with two sureties of the like amount subject to the satisfaction of Arresting Officer/SHO/IO concerned;

(ii) That the applicant shall cooperate with the investigation and make himself available for interrogation before police officer, as and when called;

(iii) That applicant shall not contact directly and indirectly to any of the prosecution witnesses.

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

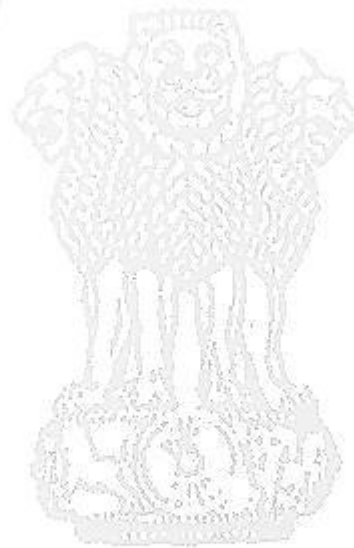
13. Application stands allowed and disposed of accordingly.

14. Order *dasti* under the signatures of Court Master.

(SURESH KUMAR KAIT)
JUDGE

SEPTEMBER 18, 2019

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