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

+ **BAIL APPLN. 1433/2017**

SAMEER

..... Petitioner

Through: Mr. Chirag Khurana, Adv.

versus

STATE

..... Respondent

Through: Mr. Tarang Srivastava, APP with SI
Nisha, PS Patel Nagar.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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18.02.2019

It is the petitioner's case that no case is made out for the alleged offence under Section 376 IPC. The statement of the complainant under Section 161 Cr.P.C. and Section 164 Cr.P.C. are replete with contradictions, which would give the impression that the act essential for comprising the offence under Section 376 IPC, was never committed. Neither does the Medical Report substantially support the charge, nor has the prosecution led any evidence to support the charge. The complainant has admitted to have solemnized a marriage with the accused.

The learned counsel for the petitioner submits that at worst, which could be a case of attempt to rape and not the act itself, in which case the petitioner would be punished for a maximum of ten years. He remains incarcerated for more than five years. The trial is at the penultimate stage. The remaining witnesses are only

Investigating Officers over whom the petitioner can have no sway. The petitioner has no criminal antecedents and undertakes to abide by the law. On 23.10.2018 the petitioner was granted interim bail for seven weeks to attend to his ailing mother. He has, on expiry of the said period, surrendered before the police authorities. He has not misused the liberty.

In the aforesaid circumstances, the petitioner is enlarged on bail on his furnishing a personal bond in the sum of Rs.10,000/- with two sureties of the like amount to the satisfaction of the Trial Court concerned, subject to the following conditions:-

- (i) the petitioner will regularly appear on each and every date of hearing as may be fixed by the learned Trial Court;
- (ii) the petitioner will not try to influence, contact or meet the complainant and prosecution witnesses in any manner;
- (iii) the petitioner will not leave the country without prior permission of the Court and the passport, if any, shall be deposited with the Trial Court concerned; and
- (iv) in case of change of his new address or contact number, the petitioner will promptly intimate to the SHO/IO of the case and intimate the Trial Court.

The petition stands disposed-off in the above terms.

Nothing stated in this order shall be deemed to be an adjudication on the merits of the case.

The Registry is directed to send a copy of this order to the Jail Superintendent, concerned for compliance. Additionally, a copy of the same shall also be delivered upon the Jail Superintendent through

the police.

A copy of this order be given *dasti* to the learned counsel for the parties under the signature of the Court Master.

NAJMI WAZIRI, J

FEBRUARY 18, 2019/kk