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

+ **BAIL APPLN. 2859/2018**

**ASHU**

..... Petitioner

Through: Mr. Krishan Kumar, Advocate

versus

**THE STATE**

..... Respondent

Through: Mr. Kewal Singh Ahuja, APP with SI  
Meenakshi

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**ORDER**

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**23.01.2019**

The petitioner apprehends arrest in case FIR no.365/2018 of police station Burari involving offences punishable under Sections 376, 506, 34 IPC. The background facts and contentions raised by the petitioner as indeed the response of the State in that regard were noted in the order dated 05.12.2018 which reads thus :-

*“...The FIR No. 365/2018, registered under Section 376/506/34 of Indian Penal Code, 1860 (IPC) of Police Station Burari on 03.08.2018 on the statement made on that date by the prosecutrix, it narrating series of incidents, last of which is alleged to have occurred on 14.07.2018. There seems to be no plausible explanation at this stage for such delay. The series of incidents is indicated to have begun sometime in March, 2018. There is a specific reference to a particular day when the prosecutrix was allegedly forcibly raped by the petitioner and his brother having subjected this episode*

*to video recording. The date of such incident is not indicated.*

*On the other hand, the petitioner has shared with the investigating agency his mobile phone instrument which contains social media chat on WhatsApp with the prosecutrix, such exchange beginning from 31.05.2018, the last exchange being of 12.07.2018, just two days before the last incident which gave trigger for FIR to be registered, it having been explained that the husband of the prosecutrix had suddenly come on the scene.*

*Having regard to the nature of social media exchange, the nature of relationship between the prosecutrix and the petitioner will have to be subjected to deeper probe. The mobile phone instrument of the petitioner has been sent by the investigating agency for forensic scrutiny, result whereof is still awaited.*

*Be listed on 23.01.2019.*

*Meanwhile, there shall be no coercive steps against the petitioner, subject to, however, he joining investigation as and when required...”*

Further status report has been filed in which it is indicated that the complainant when examined has sought to explain that she was in formal friendly relationship with the petitioner, she also having replied to his messages “*in a formal way*” though the petitioner would send messages to her “*in a different way*”. The copy of the print out of the social media chat, however, *prima facie* gives an impression that the tone and tenor of the messages from both sides might be indicative of relationship more than that of a formal friend.

Having regard to the facts and circumstances, a case for release of the applicant on anticipatory bail is made out. Thus, it is directed that in the event of the petitioner being arrested, he shall be released

on bail by the arresting officer on furnishing personal bond in the sum of Rs.20,000/- with one surety in the like amount subject to the following further conditions:-

- (i) The petitioner shall continue cooperating with the investigation and join the same as and when called upon to do so;
- (ii) The petitioner shall not come in contact with or try to influence any of the witnesses connected to the case;
- (iii) Prior to his release, he shall give the telephone numbers of self and of at least one other responsible family member besides that of the surety to the investigating officer;
- (iv) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence;
- (v) He shall not leave India without the prior permission of the court of cognizance or the trial court, as the case may be, and to ensure due compliance with this condition and shall deposit his passport, if he holds one, with the said court.

This order will inure only till the date of first appearance of the petitioner in the event of a charge-sheet being filed on conclusion of the investigation and process being issued against him by the court of cognizance.

The petition stands disposed of in above terms.

*Dasti.*

**R.K.GAUBA, J.**

**JANUARY 23, 2019/yg**

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