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

+ **BAIL APPLN. 3053/2018 & CrI.M.A. 50529/2018**

DEEPAK DAGAR

..... Petitioner

Through: Mr. Manjeet Singh, Sr. Adv. with Mr.
Shashank Khurana, Adv.

versus

STATE

..... Respondent

Through: Mr. K.S. Ahuja, APP for the State
with SI Meenakshi & Insp. Naresh
Kumar, PS Burari

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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05.02.2019

Allegations have been made against the petitioner in case FIR no. 543/2018 of police station Burari involving offences punishable under Sections 376/506 IPC. The case is presently under investigation. The petitioner apprehending arrest had earlier approached the court of Sessions for anticipatory bail application (No.3502) which was dismissed by order dated 11.12.2018, primarily on the ground that the offences involved were grave. Thereafter, the petitioner has come up to this Court under Section 438 Cr.P.C. for similar relief.

A status report was submitted on the last date, on consideration of which in the light of the pleadings in the present application, and the documents therewith, this court observed thus:-

“Status report filed. Heard.

Given the sum and substance of the allegations in the FIR, it does appear that other than the incident of 31.07.2016, the physical intimacy, assuming this has been the state of affairs in the subsequent period, may have been consensual. There is a need to seek the explanation of the prosecutrix vis-a-vis document filed as Annexure IV (pages 45 to 50 of the paper book).

Be listed on 5th February, 2019 when the State shall file a status report.

Meanwhile, there shall be no coercive steps against the petitioner subject to he joining investigation as and when called upon to do so.

The investigating officer requests that the petitioner may be called upon to join investigation at 10.00 a.m. on 22nd December, 2018 at the police station.

The counsel for the petitioner submits and undertakes that he shall abide by the same.

Dasti under the signatures of Court Master”.

Further status report has been submitted, it indicating that the prosecutrix when confronted with aforementioned annexure IV has taken the position that she was forced to right such diary entries. Conspicuously, in the FIR there was no mention, directly or indirectly, of the prosecutrix having been forced to maintain such journal entries.

In these circumstances, a case for release 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 and the application filed therewith stand disposed of in above terms.

Dasti under signatures of Court Master.

R.K.GAUBA, J

FEBRUARY 05, 2019

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