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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3215/2019**

NARENDER@NITIN

..... Petitioner

Through: Mr. Rahul Sharma and Mr. Naresh
Kaushik, Advocates.

Versus

THE STATE

..... Respondent

Through: Dr. M.P. Singh, APP for State with SI
Subhash Kumar, P.S. Nand Nagri.
Mr. Manish Kumar, Advocate for
Complainant.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

% **ORDER**
03.07.2020

CRL. M.A. 7041/2020 (Early Hearing)

1. The present application has been filed seeking early hearing of Bail Appln. 3215/2019.
2. Learned APP for the State as well as the learned counsel for the complainant have no objection to the early hearing of the bail application.
3. Accordingly, the application is allowed and the bail application is taken up for hearing today. The date fixed in the bail application is cancelled.
4. Application is disposed of.

BAIL APPLN. 3215/2019

1. The present application has been filed under Section 439 Cr.P.C. seeking regular bail in FIR No. 366/2019 under Sections 376/506 IPC registered at P.S. Nand Nagri.
2. Learned counsel for the petitioner submits that as per the allegations contained in FIR, the first incident occurred on 28.01.2019 at about 07:30 pm at the house of the complainant where physical relations were made forcibly against the will and consent of the prosecutrix. The petitioner is, in fact, the nephew of the prosecutrix and is about 22 years of age; whereas the prosecutrix is about 37 years of age. He further submits that the prosecutrix lives in a house along with seven other persons including her husband, in-laws and two grown up children and as such the allegations are baseless. He further submits that the relationship was rather consensual. An incident of quarrel occurred between the petitioner and the husband of the prosecutrix on 28.04.2019. He has referred to the status report where the factum of the aforesaid quarrel is verified and it is further stated that both the sides suffered injuries consequent upon which Non-Cognizable Reports under Section 155 Cr.P.C. were registered at P.S. GTB Enclave.
3. Learned counsel for the petitioner also submits that at the time of her medical examination, the prosecutrix refused her internal examination. He also submits that although the first incident is dated 28.01.2019 but the complaint was submitted only on 06.05.2019 and the FIR was registered on 03.07.2019.
4. Learned counsel for the petitioner, on instructions, undertakes on behalf of the petitioner that the petitioner shall stay at the address mentioned in the petition and will not come in the vicinity of the house of the

complainant if he is released on bail.

5. Dr. M.P. Singh, learned APP for the State, duly assisted by Mr. Manish Kumar, learned counsel for the complainant, has vehemently opposed the bail application. He submits that the physical relations were made forcibly against the will and consent of the prosecutrix and the delay in registration of FIR was on account of threats extended by the petitioner. He further submits that the petitioner along with his family members is also found involved in another being FIR No. 235/2017 under Sections 306/506/34 IPC registered at P.S. Tilak Marg.

6. As per the FIR, the first incident occurred on 28.01.2019 whereafter the incident was repeated number of times but no specific dates or details were mentioned. Although an incident of quarrel happened between her husband and the petitioner on 28.04.2019 and both the sides suffered injuries resulting in registration of NCRs by the police but, no complaint about incident of rape was made on the aforesaid date. The first complaint was made after 7 days of the aforesaid incident. The prosecutrix also refused her internal medical examination.

7. Keeping in mind the facts and circumstances of the case and the fact that the charge-sheet has already been filed, the petitioner is admitted to bail subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the Jail Superintendent/Duty M.M. and subject to further following conditions :-

- (i) The petitioner will not go in the vicinity of the house of the prosecutrix and shall not try to get in touch with the complainant/prosecutrix or any other prosecution witness directly or indirectly and shall not make any effort to

tamper with the evidence.

- (ii) The petitioner shall not leave the NCT of Delhi without the prior permission of the concerned Court.
- (iii) The petitioner shall provide his mobile telephone/landline number as well as his residential address to IO SI Subhash Kumar (Mobile No. 8860174689)/SHO, P.S. Nand Nagri (Mobile No.8750870733) and in case of change in the same, shall bring it to the notice of IO/SHO and the concerned court.
- (iv) The petitioner shall regularly appear before the trial court.

8. The application stands disposed of in the above terms.

9. A copy of this order be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

MANOJ KUMAR OHRI, J

JULY 03, 2020

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