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

+ **BAIL APPLN. 101/2019**

**SHAUKAT @ AYAN** ..... Petitioner

Through: Mr. Devendra Kumar, Adv.

versus

**THE STATE** ..... Respondent

Through: Mr. Panna Lal Sharma, APP for State

**CORAM:**

**HON'BLE MR. JUSTICE SURESH KUMAR KAIT**

**ORDER**

**14.01.2020**

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The present petition is filed under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No. 223/2018 registered at Police Station – Patel Nagar for the offences punishable under Sections 376/328/406 IPC and Sections 4/21 POCSO Act.

Case of the petitioner is that the present FIR has been lodged on the basis of false complaint, mentioning false incident of rape, against the co-accused Abhay, who is languishing in jail. Main allegation of rape has been levelled against the said co-accused, while on the other hand, name of the applicant has been mentioned in the above mentioned FIR in respect of some jewellery, which were allegedly given to the applicant as the applicant required some urgent loan, but the applicant has returned the said jewellery on the pretext that these jewellery are fake/artificial.

An FIR No. 223/18 has also been lodged by one Ms. N. against the applicant, which is also false and frivolous one, having been got registered by the complainant with a view to extort money from the applicant, for which the applicant has filed separate application for grant of anticipatory bail.

Learned counsel appearing on behalf of the petitioner submits that the charge-sheet in respect of the co-accused has only been filed before the Court in which it has apparently clarified that the allegation of rape against the said co-accused have not been made out and the allegation of jewellery, which was allegedly given to the applicant has also surfaced but on truth.

The complainant has not given original receipt of jewellery, allegedly given to the applicant and no specific weight and size have been disclosed and as such, it is clear that a false complaint has been lodged by the complainant only with a view to extort money from the applicant.

Learned APP appearing on behalf of the State has fairly conceded that as per the allegation of complainant that the rape took place in the hotel, however, there is no record that the accused had taken room in hotel. Moreover, the accused or the prosecutrix are not seen in CCTV footage of the said hotel.

However, without commenting on the merit of the prosecution case, I am of the opinion that the present case is fit for anticipatory bail.

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 petitioner shall furnish a personal bond in the sum of ₹15,000/- with one surety in the like amount subject to the satisfaction of

Arresting Officer/SHO/IO concerned;

(ii) That the petitioner shall cooperate with the investigation and make himself available for interrogation by police officer, as and when required;

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

Application stands disposed of.

**SURESH KUMAR KAIT, J**

**JANUARY 14, 2020**

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