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

+ **BAIL APPLN. 1191/2020**

GAURAV SHUKLA

..... Petitioner

Through: Mr Rajiv Mohan and Mr Ankur Rai,
Advocates.

versus

STATE

..... Respondent

Through: Ms Kusum Dhalla, APP for State
along with SI Gaurav Singh, PS
Ranjit Nagar.
Complainant in person.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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25.06.2020

[Hearing held through videoconferencing]

CRL. M.A. 7441/2020

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The petitioner has filed the present petition, *inter alia*, seeking bail in case arising from FIR No. 149/2017 under Sections 376/325/384/506 of the IPC, registered with Police Station Ranjit Nagar.
4. The said FIR was registered on 14.04.2017 at the instance of a young woman aged about 23 years (hereafter referred to as 'the complainant'). In her statement, which also formed the contents of the FIR, she made serious allegations against one Ms A (name concealed) and her father. She stated that she had rented her room from Ms A's father. She had become friends

with M/s A as both of them were preparing for the competitive examination for joining the civil services. The complainant alleged that on 09.04.2017 she and Ms A was studying for the competition examination. At about 10:30 pm, the complainant was feeling sleepy, but Ms A asked her not to sleep and continue studying. The complainant alleged that Ms A prepared some tea but mixed some substance in it, which resulted in her losing consciousness. It is stated that she gained consciousness at about 03:00 am in the morning and realised that Ms A's father had entered her room and had done a wrong act with her (raped her). She also stated that he had threatened her that an obscene video film prepared while she was compromised would be circulated.

5. Her statement under Section 164 of the Cr.PC was recorded where she reiterated her allegations.

6. After the investigations were conducted, the allegations made by the complainant were found to be unsubstantiated. Her statement under Section 164 of the Cr.PC was recorded once again on 01.10.2018. In this statement, she retracted all the allegations that she had made in the FIR. She now made allegations against the petitioner. She stated that she came to know the petitioner while she was studying at Rau's IAS in the year 2015 and at that time, she was residing in a hostel. She stated that the petitioner was one of her teachers and had slowly developed social contact with her. She alleged that the petitioner promised that he would get married to her and they started living together. According to her, she was aware that the petitioner was married but he represented to her that divorce proceedings against his wife were pending.

7. She alleges that the petitioner concealed that he had children from his marriage, which she came to know later on. She also came to know that Ms A had levelled the allegations of rape against the petitioner. The complainant stated that she had implicit trust in the petitioner and he had told her that Ms A had made a false case against him for extorting money. He persuaded her to lodge a false case against Ms A's father as that would help him to resolve the case, which had been lodged by Ms A and then he would be free to get married to her. The complainant, thereafter, elaborately narrated the manner in which she made friends with Ms A and managed to hire a room from her father and concocted a false case against them. She alleged that she had made false allegation against Ms A and her father at the instance of the petitioner. She also alleged that the petitioner had taken money from her.

8. In view of the above, the petitioner was arrested in the FIR and charges under Sections 376/384/319 & 195A of the IPC were framed against the petitioner. The prosecution's evidence is currently being recorded.

9. It is relevant to note that Ms A had lodged an FIR against the petitioner in the year 2015 while he was undergoing training at Nagpur.

10. On registration of the said FIR (FIR No. 448/2015 under Section 376 of the IPC), the petitioner was arrested from the Nagpur in the year 2015. The petitioner is on bail in that matter.

11. The petitioner was arrested in the present FIR (FIR No. 149/2017) on 03.10.2018 on the basis of the second statement recorded by the complainant on 01.10.2018.

12. Ms Dhalla, learned APP submits that the trial is at a crucial stage and cross-examination of the complainant is not over as yet and, therefore, the petitioner's application for bail ought to be denied.

13. At this stage, this Court is not required to examine the charges in detail. However, it is clear that the question whether the petitioner has committed any offence punishable under Section 376(2)(a) of the IPC is highly contentious considering that it is admitted by the complainant that she was aware that the petitioner was married at the relevant time. Mr Mohan, learned counsel appearing for the petitioner also points out that the complainant is also married.

14. The complainant, who has also joined the present proceedings, states that she is married but is separated from her husband and has not been in contact with him for the past seven-eight years.

15. The charge of extortion punishable under Section 384 of the IPC is also contentious as it does not appear that there is any allegation that the petitioner had forcibly collected or attempted to collect any money/valuable from the complainant under any threat.

16. There is a serious charge against the petitioner of conspiring with the complainant in lodging a false FIR against Ms A's father and for tampering evidence.

17. Although evidence of the complainant is being recorded but it is unlikely that the trial will be completed shortly. It is also relevant to note that the petitioner has also challenged the order framing charges as the FIR

in question does not contain any of the allegations against the petitioner or regarding any alleged offence for which the charges have been framed. The petitioner's revision petition (Crl. Rev. P. 1231/2019) is pending before this Court.

18. The petitioner has been in custody for almost one year and nine months.

19. Considering the above, this Court considers it apposite to allow the present petition.

20. The petitioner shall be released on bail on his furnishing a personal bond in the sum of ₹20,000/- with one surety of an equivalent amount to the satisfaction of the Jail Superintendent/Duty Magistrate. This is also subject to following further conditions:

- (a) The petitioner shall provide a contact number and ensure that he is reachable at all the times;
- (b) Neither the petitioner nor any of his family members shall contact the complainant either directly or indirectly;
- (c) The petitioner shall not visit or enter the colony where the complainant resides, that is, Indira Nagar, Lucknow.
- (d) The appellant shall mark his presence before the Local Police Station where he resides on first Monday of every calendar month; and
- (e) the petitioner shall ensure that he is available for all hearings before the Court.

21. The petition is allowed in the aforesaid terms.

22. A copy of this order be communicated to the concerned jail authorities electronically.

VIBHU BAKHRU, J

JUNE 25, 2020
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