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

+ **BAIL APPLN. 2138/2020**

GAUTAM

..... Petitioner

Through Mr. Dalip Kumar Santoshi, Adv.

versus

STATE OF NCT OF DELHI

..... Respondent

Through Mr. Panna Lal Sharma, APP for State
Mr. Pavitra Veer Singh, Adv. for
complainant

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% **28.08.2020**

The hearing has been conducted through video conferencing.

1. The present petition has been filed by the petitioner under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No.288/2020, for the offences punishable under Sections 376/328 IPC, registered at PS Mandawali, Delhi.
2. As per status report, the incident is of 07.11.2019 at Darshna Hotel, Ghaziabad, Delhi and zero FIR was lodged on 11.03.2020 at Police Station Gandhi Nagar, Delhi under allegations of accused committing rape on the pretext of marriage. The said FIR was transferred to Police Station Mandawali, Delhi on 11.07.2020, having jurisdiction of the said incident.
3. During investigation, complainant submitted that she is a divorced woman and has a 12 years old son. Upon investigation, it was found that complainant had a document of notary/deed in respect of dissolution of her first marriage on 26.02.2020, however, it was not from any competent Court of law.
4. Further, as per the statement of Manager of Darshan Hotel, Ghaziabad,

there is no entry in the name of victim and the petitioner on 07.11.2019. However, an entry made in the name of complainant and petitioner appears on 04.11.2019 for room No.409. Even otherwise, the petitioner and the prosecutrix were frequent visitors at hotel. Further, the victim also refused to undergo internal medical examination.

5. Learned counsel for the petitioner submits that the sexual relations between the petitioner and victim/prosecutrix are consensual.

6. Though the learned APP for the State and the learned counsel for the victim/complainant have opposed the present petition, however, keeping in view the facts recorded above and without going into merits of the case, I am of the view that the petitioner deserves bail.

7. Accordingly, the SHO/IO concerned is hereby directed that in the event of arrest, the petitioner/applicant shall be released on his furnishing a personal bond in the sum Rs.25,000/-.

8. The petitioner shall cooperate with the investigation and make himself available for interrogation by police officer, as and when required.

9. Learned counsel for victim/complainant submits that the petitioner is extending threats to the victim and to this effect, she has already lodged a complaint.

10. Accordingly, on verifying the said fact, police may take action accordingly on the complaint of the prosecutrix as per law.

11. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through email.

SURESH KUMAR KAIT, J

AUGUST 28, 2020/rk