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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2440/2015

PRASHANT MALHOTRA

..... Petitioner

Through

Mr Navin Sharma and Ms Divya Garg,
Advts. alongwith petitioner in person

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through

Mr Hirein Sharma, Additional Public
Prosecutor for the State alongwith Sub
Inspector Niranjana Kumar Police Station
Bhajanpura, Delhi

Mr Vivek Bhardwaj, Adv. for
complainant alongwith complainant in
person

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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29.04.2016

1. This is application under Section 438 of Cr.PC moved by the petitioner for grant of anticipatory bail in case FIR No. 631/2015 under Sections 376 IPC registered at Police Station Bhajanpur, Delhi.

2. As per the allegations of the complainant, the petitioner committed sexual, financial and social harassment amounting to rape of the complainant on the ground of false marriage assurances by him. The petitioner and the complainant were in a live-in relationship and that there was an attempt to push the complainant into immoral trafficking. The complainant is a physiotherapy graduate and knows the family of the applicant since the year 2006 when they were both studying in the same college. It was during that time in college that the petitioner and the complainant became good friends and fell in love. After graduating from

the college in the year 2009, the petitioner introduced the complainant to his parents and other family members. In the year 2010, the petitioner proposed to the complainant of jointly opening a physiotherapy clinic at the portion of the residence of the parents of the petitioner and asked her to contribute Rs.1,50,000/- for the purchase of physiotherapy equipments. Thereafter physiotherapy clinic was jointly run by them and complainant used to do all the work of the clinic and also visited the clients for home treatment. It is alleged by the complainant that in the month of January, 2011, they decided to solemnize their marriage and thereafter they started to live in a live-in relationship with the consent of parents of the petitioner and she allowed the petitioner to have physical relations with her on the assurance of marriage. It is further alleged that in the first week of December, 2014, she got prepared the documents of court marriage scheduled for 8th December, 2014 but the petitioner informed the complainant on 6th December, 2014 that her father has suffered heart attack and was admitted in the hospital, therefore, the marriage was postponed. When she visited the hospital then she came to know that there was no patient hospitalised in the name of Mr. H. R. Malhotra. Thereafter petitioner was not traceable for four months. Later on he sent a SMS that she should marry someone else. Thereafter his mother extended threats to leave his son or face dire consequences.

3. Counsel submits that all these allegations are absolutely false and fabricated. At no point of time, there was any proposal for marriage between the applicant and the complainant. On 27th April, 2015, the police officials approached the petitioner and forcibly made him to write on papers in his hand writing as directed by the police officials as per the wishes of the complainant under pressure and threat, for which a complaint

was made by the applicant on 14th May, 2015. This false complaint has been lodged by the complainant in order to grab the property of father of the petitioner where physiotherapy clinic was running to achieve her dream of having her own physiotherapy clinic. The complainant has roped in not only the petitioner but also his father, mother, sister and brother-in-law. Counsel further submits that the petitioner has already joined investigation and is still ready and willing to further join investigation.

4. Reliance has been placed on *Jagdish Nautiyal vs. State* 2013(1) JCC 311 and *Rohit Chauhan vs. State NCT of Delhi*, 2013 VI AD (Delhi) 481.

5. The application is opposed by the learned APP for the State duly assisted by the counsel for the complainant on the ground that on the pretext of marrying the complainant, the petitioner sexually assaulted her. There was physical assault by the family members of the petitioner as well. As such, there is no ground for releasing him on bail.

6. As per the FIR itself, the complainant was having live-in relationship with the petitioner as in the complaint itself, it has been mentioned that the petitioner is “live-in partner” husband of the complainant”. The complainant is major and as per her own version, she started to live in ‘live-in relationship’ with her consent and allowed him for physical relationship albeit on his assurance of marriage and his parents also expressed their consent for the same. There are further averments that she had also visited Kanpur etc. with the petitioner and his mother. Thereafter, things did not go smoothly resulting in registration of FIR. It is not in dispute that the petitioner has already joined investigation. As per the status report, custodial interrogation of the petitioner is not required.

7. Under the circumstances, keeping in view the facts and circumstances of the case, it is ordered that in the event of of his arrest:-

- (i) Petitioner be admitted to bail on his executing personal bond in the sum of Rs.20,000/- (Rupees Twenty Thousand only) with one surety in the like amount to the satisfaction of the concerned I.O./SHO.
- (ii) He shall join the investigation as and when called for by the I.O.
- (iii) He shall furnish his address as well as his contact number to the Investigating Officer.
- (iv) He shall not threaten or coerce complainant or any prosecution witness.

The application is accordingly disposed of.

Copy of this order be given *dasti* to counsel for the petitioner.

SUNITA GUPTA, J

APRIL 29, 2016

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