

(2018) 03 DEL CK 0507

In the Delhi High Court

Case No : Bail Application No. 2656 Of 2017

Raj Kumar

APPELLANT

Vs

State GOVT Of NCT Of Delhi

RESPONDENT

Date of Decision : 22-03-2018

Acts Referred:

Indian Penal Code, 1860 — Section 376

Citation : (2018) 03 DEL CK 0507

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Kartickay Mathur, Sanket Gupta, Arun Kumar Sharma

Final Decision : Disposed Of

Judgement

Sanjeev Sachdeva, J

CrI.M.A. 21437/2017 (exemption)

Exemption is allowed subject to all just exceptions.

BAIL APPLN. 2656/2017

1. The petitioner seeks regular bail in FIR No.314/2017 under Section 376 IPC, Police Station Patel Nagar.

2. The allegations in the FIR are that the petitioner is the boyfriend of the prosecutrix and on the false promise of marriage he entered into physical relationship with the prosecutrix. It is alleged that the petitioner assured the prosecutrix that he would get married to her but subsequently refused to marry her. It is further alleged that on 04.10.2017, the petitioner by deceiving the prosecutrix took her phone and deleted all the photographs as well as audio-recordings of the petitioner as well as prosecutrix and after deleting the same stated that he would not marry her as he had removed all proofs.

3. Learned counsel for the petitioner submits that the petitioner has been falsely

implicated and there is no allegation that the relationship was not consensual. Further, it is contended that though the allegation of the prosecutrix is that the petitioner had deleted the alleged photographs and audio-recordings from her phone, she has not surrendered her phone to the prosecution for the purposes of forensic examination, which substantiate that the allegations are not correct.

4. Learned counsel for the petitioner relies on the decision of a Coordinate Bench of this Court in Jagdish Nautiyal vs. State: 2013 (1) JCC 311.

5. Learned APP for the State concedes that the prosecutrix has not surrendered her phone and, as per the chargesheet, the prosecutrix had refused to hand over the phone on the ground that the petitioner had deleted the recordings.

6. The case of the prosecution that the consent of the complainant for making physical relationship was obtained by misrepresentation or under the guise of marriage would be established by prosecutrix by entering into the witness box, prosecution leading appropriate evidence for which no custodial interrogation or consequent recovery is required to be made.

7. Without commenting upon the merits of the case, perusal of the record shows that the petitioner has made out a case for being admitted to bail. Accordingly, the petitioner is admitted to bail subject to the petitioner furnishing a bail bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Trial Court.

8. Further, it is directed that the petitioner shall not do anything, which shall prejudice either the trial or the prosecution witnesses. The petitioner shall not attempt to contact the prosecutrix or her family members or any of the witnesses. The petitioner shall also not leave the country without the permission of the Trial Court.

9. Petition is disposed of in the above terms.

10. Order Dasti under the signatures of the Court Master.