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Nitesh Kumar Vs State  
FIR No. 908/15  
PS- Sarita Vihar  
U/s- 376(2)(n)/323/328/506 IPC,  
6 POCSO Act

22.07.2016

Present: Sh. Sunil Dutt, Ld. Additional Public Prosecutor for the state.  
Sh. Pankaj Singh and Mr. Loveleen Kaithwas, counsel for  
accused.

Submissions heard on the bail application u/s- 439 Cr.P.C  
moved on behalf of the accused/applicant Nitesh Kumar.

It is stated that applicant is 24 year of age having clean antecedents and sole bread winner of his family having old age parents and a younger brother. It is stated that applicant is a student and pursuing his graduation and simultaneously working. It is stated that applicant/accused and prosecutrix fell in love with each other and father of prosecutrix put condition for their marriage on which dispute arose and was settled vide settlement deed dated 20.07.2015. On 21.10.2015 the prosecutrix and petitioner went to Kali Bari Temple and got married with each other secretly and thereafter some time applicant came to know that prosecutrix is having physical relationship with one Akhvinder Singh Rawat and prosecutrix out of vengeance falsely implicated the applicant. It is stated that on 14.07.2016 prosecutrix was cross examined and it transpires that she is not a credible witness and cannot be trusted. It is stated that there is an inordinate delay in lodging of FIR. It is stated that prosecutrix has stated in her statement u/s- 164 Cr.P.C. that she and applicant were in love and consented for marriage. It is stated that investigations are complete and charge sheet has already

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been filed and nothing incriminating is found against the applicant. It is stated that the applicant/accused is ready to abide any terms and conditions as may be imposed by the court and is permanent resident of Delhi. Reliance is placed upon the judgment of Sanjay Chandra Vs CBI , (2012) 1 Supreme Court Cases 40, Rohit Chauhan Vs State of NCT of Delhi, Bail App. No. 311/13 of Delhi High Court and Mahadev Patil Vs State of Maharashtra, in Bail App. No. 1036/15 of Bombay High Court.

On the other hand Ld. Addl. PP stated that allegations are specific against the applicant and he be not released on bail. It is stated that prosecutrix has been examined who is supporting the case of the prosecution.

I have gone through the file specially the complaint on which FIR was lodged, statement of the witness/prosecutrix recorded under section 164 Cr.P.C and the testimony of the prosecutrix recorded during the trial, without commenting upon the merits of the case at this stage as the same may affect trial, I am of the view that case is made out to admit the accused on bail. Accordingly, the application is allowed and accused Nitesh Kumar is admitted to bail on furnishing of a bail bond in a sum of Rs. 30,000/- along with one surety of like amount.

Copy of the order be given dasti. Copy of the order be also sent to Jail Superintendent, Tihar to be communicated to the accused. No observation made in this order shall affect the merits of the case.

( SUNIL CHAUDHARY )  
ASJ-01/ SOUTH EAST DISTRICT  
SAKET COURTS/NEW DELHI/22.07.16