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Yogesh vs.state

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SooperKanoon Citation : sooperkanoon.com/1213157

Court : Delhi

Decided On : Feb-28-2018

Appellant : Yogesh

Respondent : State

Judgement :

Judgment delivered on:

28. 02.2018 $~12 * IN THE HIGH COURT OF DELHI AT NEW DELHI % + YOGESH BAIL APPLN. 2468/2017 .....

... Petitioner
versus ..... Respondent STATE Advocates who appeared in this case: For the

... Petitioner
: For the Respondent : Mr Jai Gupta and Ms Sunita Yadav. Ms Anita Abraham, APP. Insp Naresh Kumar, PS Burari. CORAM:-

"HONBLE MR JUSTICE SANJEEV SACHDEVA JUDGMENT2802.2018 SANJEEV SACHDEVA, J.

(ORAL) 1. The petitioner seeks regular bail in case FIR No.103/2016 under Sections 376/313/506 IPC, Police Station Model Town.

2. The allegations against the petitioner are that the petitioner befriended the prosecutrix, whose is aged about 30 years. It is contended that the petitioner is alleged to have made physical relationships with the complainant on the false promise of marriage. BAIL APPLN. 2468/2017 Page 1 of 3 3. It is alleged that they had relationship for nearly three years. It is when the petitioner is alleged to have refused to marry the prosecutrix that the subject complaint had filed.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated and the allegation show that the relationship was consensual. Further, he submits that the prosecutrix was married to one Mr Pappu in 2004 and as per his instructions, no divorce has taken place and since the prosecutrix was already married when the relationship was allegedly made, there could not be any false promise to marry.

5. Further, it is contended that the prosecutrix is avoiding to depose before the Trial Court and twice she had appeared before the witness box, however, the testimony has not been concluded and now, the case stands adjourned to 09.04.2018. The petitioner was arrested on 14.03.2016 and has been in custody since then.

6. Learned counsel for the petitioner further relies on the statement of the father of the prosecutrix, wherein he has admitted that she was married to one Mr Pappu in the year 2004.

7. Learned counsel for the petitioner further contends that there is nothing on record to show that the prosecutrix had divorced the said Mr. Pappu except for the testimony of the father, who also states that there was a settlement between the prosecutrix and Mr Pappu before BAIL APPLN. 2468/2017 Page 2 of 3 Mahila Ayog.

8. Learned Counsel relies upon the decision of the Supreme Court on the judgment of the Supreme Court in Prashant Bharti Versus State (NCT of Delhi) (2013) 9 SCC293to contend that where the prosecutrix was herself married, when the alleged physical relationship is stated to have been made, there could not be any offence under section 376 IPC solely on the false promise to marry.

9. The

... Petitioner
has been in jail since 14.03.2016 and the trial is likely to take substantial time.

10. After perusal of the record, without expressing any opinion on the merits of the case, I am of the view that the petitioner has made out a case for grant of bail. Accordingly, the petitioner is admitted to bail, subject to furnishing a bail bond in the sum of Rs.25,000/- with a surety of like amount to the satisfaction of the Trial Court. The petitioner shall not do anything, which shall either prejudice the trial or the prosecution witnesses. The petitioner shall not make endeavour to contact the prosecutrix or her family members. The petitioner shall also not leave the country without the permission of the Trial Court.

11. Order Dasti under signatures of the Court Master. SANJEEV SACHDEVA, J February 28, 2018/Sn BAIL APPLN. 2468/2017 Page 3 of 3

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