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

+ **CRL. M.C. 3913/2011**

% *Judgment delivered on: 28th November, 2011*

SUMAN

..... Petitioner

Through : Mr.Ravi Gupta, Sr. Adv. with
Mr. Rajiv Bajaj, Adv.

versus

STATE & ORS

..... Respondent

Through : Mr.Naveen Sharma, APP for State.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

CRL. M.A. 18453/2011

Exemption is allowed subject to just exceptions.

Criminal M.A. stands disposed of.

+ **CRL. M.C. 3913/2011**

1. Vide the instant petition, the petitioner has assailed the order dated 11.11.2011 of District Judge & Addl. Sessions Judge, Incharge North-West District, Rohini Courts whereby the ld. Trial Judge directed the respondents to be released on anticipatory bail.

2. Ld. Counsel for the petitioner further submits that the accused in the present case are 21 in number. Three ladies were gangraped by them on 02.02.2009 and on same date, complaint was lodged to the police. However, FIR was lodged on 24.03.2009 only under Section 324 Indian Penal Code, 1860.

3. Thereafter, petitioner filed the petition before this court and vide order dated 06.03.2010, whereby this Court directed the police to record the statement of the prosecutrix / petitioner.

4. Thereafter, police filed the chargesheet under Section 324 Indian Penal Code, 1860 on 02.09.2010 and thereafter the matter was placed before the trial court and vide order dated 15.11.2010, ld. Trial Judge again directed the police to investigate further. Again on 24.12.2010, ld. Trial Jude passed the order and directed the Senior Officer of the police to monitor the instant case.

5. On 14.04.2011, Second chargesheet was filed and that again under Section 323/324 Indian Penal Code, 1860. However, only one section i.e. 323 of IPC was added in the said chargesheet.

6. On 16.10.2011, ld. Trial Judge has recorded in the said order that the statements of complainant were recorded on 23.03.2010, pursuant to the order dated 16.03.2010 passed by Delhi High Court. In the said order, I note 21 alleged accused has been mentioned in the complaint.

7. After considering all facts, ld. Trial Judge vide order dated 16.10.2011 passed the order that in spite of the fact that as per the

statement, prima facie seems to be commission of offence such as causing hurt by dangerous weapons and means, wrongful confinement, assault / use of criminal force with the intent to outrage the modesty of the complainants, kidnapping or abducting with the intent to wrongfully confine one of the complainants, commission of rape, attempt to commit rape, commission of gang rape, attempt to commit gang rape, attempt to commit murder, robbery, causing hurt in committing robbery, lurking house trespass or house breaking by night in order to commit offence and causing grievous hurt while committing such house trespass.

8. Ld. Trial Court has recorded in the said order that the allegations levelled by the complainant, prima facie show the commission of various offences mentioned above by all the accused persons in furtherance of their common intention named by the complainant.

9. It is also recorded that this is not the stage to go into the merit of the case in detail. As per the material on record, cognizance has taken for offences under Section 324/326/354/365/366/392/394/342/376/511/307/452/457/459 read with Section 34 Indian Penal Code, 1860 against all the 21 respondents / accused.

10. Ld. Counsel for the petitioner has also pointed out that in order dated 11.11.2011, it is also recorded by the Id. Trial judge that all 21 respondents / accused was granted interim protection vide order dated 13.10.2011, whereas the order was passed on 13.10.2010 and the applications of all the accused were dismissed.

11. The present petition is against the anticipatory bail granted to the respondents / accused persons after seeing the entirety into view of the case.

12. The police investigated the case and filed the chargesheet twice. Firstly under Section 324 Indian Penal Code, 1860 and thereafter under Section 323/324 Indian Penal Code, 1860. Moreover, the cognizance has already taken for the offences mentioned in Para – 8 of above.

13. Keeping the facts and circumstances of the instant case into view, I am not inclined to interfere with the order passed by Id. Trial Judge.

14. Accordingly Crl. M.C. 3913 is dismissed.

15. The observation made in the present order shall not come in the way in disposal of the matter on merit before the Trial court.

SURESH KAIT, J

NOVEMBER 28, 2011

jg