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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ BAIL APPLN. 2692/2014

BRIJ BHAN

..... Petitioner

Through: Mr. Pradeep Norula, Advocate

versus

STATE

..... Respondent

Through: Ms Fizani Hussain, APP

+ BAIL APPLN. 2696/2014

HIRA LAL

..... Petitioner

Through: Mr. Pradeep Norula, Advocate

versus

STATE

..... Respondent

Through: Ms Fizani Hussain, APP

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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30.01.2015

1. Vide this common order, I shall dispose of two bail applications bearing Nos.2692/2014 and 2696/2014 filed by Brij Bhan and Hira Lal as both the applications have been filed for grant of bail under Section 439 Cr.P.C. in case FIR No.124/2014 u/s 376/451/506/34 IPC and Section 4 of POCSO Act registered with PS Karawal Nagar.

2. As per the prosecution case, the complaint dated 13th February, 2014 of Ms.Deepshikha @ Komal aged 17 years through speed post was received at PS Karawal Nagar in which she alleged that on 11th February, 2014 at about 9:30 PM, three persons, namely, Brij Bhan,

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Hira Lal and Teji Gujjar entered her house forcibly. At that time, she was alone in her house as her parents and brother had gone to her sister's house at Village Gawadi. Teji Gujjar asked her as to why she had not agreed for compromise in case FIR No.28/2014 dated 10th January, 2014 u/s 354/341/34 IPC and Section 8 of POCSO Act, PS Karawal Nagar. Thereafter Teji caught hold her from back side and Hira Lal tried to disrobe her. When she started screaming, Hira Lal shut her mouth and asked one of his associates Babuji to close the door. Thereafter Brij Bhan removed her *pajami* and inserted his finger into her vagina. Before that he took out his penis and did something. Thereafter they left after extending threat to her if she makes any hue and cry. She also alleged that the accused persons got her father implicated in a false case. Simultaneously, the complainant filed a complaint case before the learned Metropolitan Magistrate u/s 156(3) Cr.P.C. On the direction of the Court, the FIR in the instant case was registered.

3. Learned counsel for the petitioners referred to the report under Section 169 Cr.P.C. filed by Ms. Vandana Rao, WSI, SWR Crime Branch, R.K. Puram, New Delhi before the learned Trial Court which revealed that the complainant got another case registered against Teji Gujjar vide FIR No.490/14 dated 21st June, 2014 u/s 341/195A/506 PS Farsh Bazar and Teji Gujjar was granted anticipatory bail vide order dated 7th July, 2014. Hira Lal also moved a writ petition bearing WP(Crl.) No.462/2014 which was disposed of by directing the DCP to monitor the progress of the case. Another FIR bearing No. 28/14 was registered on the complaint of the complainant wherein she

alleged that on 10th January, 2014, Hira Lal and Brij Bhan not only sexually assaulted her but touched her body. There was another FIR No. 16/14 u/s 354/341/323/506 IPC wherein Smt. Pushpa Devi, w/o Sh. Radhey Shyam got the FIR registered against one Bijender, father of the present complainant. On the basis of the said FIR, Bijender Pal Singh was arrested. It was further submitted that during the course of investigation, the case was transferred to Crime Branch and was entrusted to SI Vandana Rao for further investigation. As per the charge sheet, it was revealed that the petitioner and Hira Lal were related to each other and were brothers-in-law. Brij Bhan was friend of Radhey Shyam, husband of Pushpa and it was stated by the petitioners-Hira Lal and Teji that they have been falsely implicated in the case so as to exert pressure upon Pushpa for withdrawing her case against Bijender Pal Singh, i.e., the father of the complainant. As far as Teji Gujjar is concerned, neither he knew the complainant nor the other accused persons and he has never visited the place of incident. He also stated that he had been falsely implicated at the behest of J.P. Bansal, Advocate of the complainant who was the son of Bhrahm Singh. Brahm Singh was his close friend. J.P. Bansal had married twice and Brahm Singh had not left any of the properties in favour of J.P. Basnal or any children from second marriage and Teji Gujjar, happened to be witness of the Will. Presence of Teji Gujjar at the spot was also not established. As such, Teji Gujjar was not arrested and his name was kept in Column 12 of the charge sheet. As such, it was submitted that the present complaint is false which is apparent from the fact that the material allegations were against Teji Gujjar who was

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not arrested and was kept in Column 12 of the charge sheet. Furthermore, the FIR is a counter blast to the FIR registered against the father of the complainant on the complaint of Pushpa. Had there been any merit in the complaint, the petitioner would have been arrested immediately but they were arrested after four months of the incident. The charge sheet has already been submitted. The petitioners are no longer required for the purpose of investigation. As such, they be released on bail.

4. On the other hand, it was submitted by the learned Additional Public Prosecutor for the State that the complainant has reiterated her version made in the complaint when her statement u/s 164 Cr. P.C. was recorded by the Metropolitan Magistrate. Further although the complaint qua Teji Gujjar was found to be false but there is sufficient evidence against the petitioners, even charge has not been framed as yet. As such, there is no ground to release the petitioners on bail.

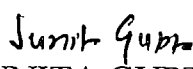
5. Taking note of the status report filed by the Investigating Officer of the case before the learned Trial Court coupled with the fact that there were serious allegations in the complaint against Teji Gujjar who has not been arrested rather has been kept in Column No.12 and the fact that the petitioners are in custody since 14th June, 2014, they are admitted to bail subject to the conditions that :-

- (i) They shall furnish personal bond in the sum of Rs.15000/- with one surety each in the like amount to the satisfaction of the learned Trial Court.
- (ii) They shall not to contact, threaten or pressurise the complainant or any of the prosecution witnesses.



The applications are accordingly disposed of. Copy of the order be given *dasti* under the signature of Court Master.

It is, however, made clear that nothing stated herein shall tantamount to an expression of opinion on merits of the case.


SUNITA GUPTA, J

JANUARY 30, 2015
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