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

+ **CRL.M.C. 195/2015**

STATE (NCT OF DELHI)

..... Petitioner

Represented by: Mr. Hirein Sharma, APP for
the State.

versus

RAKESH GOEL & ORS

..... Respondents

Represented by: Mr. Satnarain Sharma,
Advocate for respondent No.2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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14.12.2016

1. The respondent Nos. 1 to 4 were granted regular bail in case FIR No. 907/2014 under Sections 376D/365/34 IPC registered at PS Prashant Vihar, Delhi vide separate orders dated 22nd September, 2014, 26th September, 2014, 27th September, 2014 and 7th October, 2014.
2. Challenging the said orders being perverse and liable to be set aside, State seeks cancellation of the bail of the four respondents. Reply affidavits along with the copy of FSL report have been filed by the respondents.
3. The above noted FIR was registered on the statement of the complainant who stated that she was aged 22 years and studying in 10th standard. On 5th August, 2014 at 8.00 PM she had gone to the shop of Gaurav Chopra, respondent No. 2 where Pankaj was also present. She had gone to purchase perfume when Gaurav Chopra stated that it was his friend

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Ishan Malik's birthday so she would have to accompany them to celebrate the same. They took away her phone and made her sit on the motorcycle which was being driven by Gaurav Chopra, respondent No.2 and Rahul Goyal was the other pillion rider. On reaching the property she found two more persons, one of them was an old man and the other one looked like his servant. She also found Ishan Malik present there. She alleged that Gaurav Chopra, Ishan Malik, the old man and the servant raped her after using condoms however, Pankaj did nothing with her and returned her phone. She called up Tariq Khan around 10.25 PM whereafter Pankaj dropped her at Rithala Metro Station where Tariq was present. She stated that Tariq was her fiancée and they were to get married, which fact was known to her parents. She further alleged that when she went with Tariq to her residence, her father, sister and younger brother got agitated on seeing her and Tariq. Thus she went with Tariq who brought her to the Police Station though she did not want to go there as she was afraid of Gaurav Chopra who had made her video and was blackmailing her. The four respondents were arrested.

4. In the orders granting bail the learned Additional Sessions Judge noted that the victim had gone to the shop of Gaurav Chopra on her own and accompanied him and Pankaj to celebrate the birthday of Ishan Malik, though she did not know Ishan Malik. The sexual intercourse was with the use of condoms and she returned home with Tariq Khan after 10.30 PM and did not complain to her parents rather her parents did not permit her to enter the home. She lodged the complaint at the instance of Tariq Khan. The FIR was lodged on the next day at 4.30 PM. Hence bail was granted the respondents.

5. The present petition is pending before this Court since 19th January, 2015 when notice was issued to the respondents and they filed their responses. During the course of trial FSL report has also been received and as per the FSL report the male DNA profile generated from Exhibits 3, 4 and 5, that is, the inner parts of the condom did not tally with the alleles from the Exhibits 6b, 7b, A2 and B2 which were the gauze cloth pieces of Gaurav Chopra, Imran @ Ishan Malik, Rakesh and Umesh.

6. During the pendency of the present petition there is no allegation that the respondents have tried to threaten the complainant. The charge in the above noted FIR was framed against the respondents on 1st August, 2016 and thereafter on two dates, that is, 29th August, 2016 and 21st August, 2016 though the prosecutrix was present however, she sought adjournment and did not examine herself on the ground that she was unwell.

7. Considering the subsequent opinion of the FSL expert, the fact that the trial is likely to take some time, there is no allegation against the respondents that they are influencing the witnesses and the respondents have reaped the benefit of the bail orders for the last more than two years, this Court does not find it to be a fit case for cancellation of bail granted to the respondent.

8. Petition is dismissed.

MUKTA GUPTA, J.

DECEMBER 14, 2016/‘vn’