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

+ **BAIL APPLN. 1888/2015**

Date of Decision: 08.01.2016

SHAMSHER SINGH

Through

..... Petitioner
Mr.Sumit Choudhary, Adv.

versus

STATE (GOVT OF NCT, DELHI)

Through

..... Respondent
Ms.Alpana Pandey, APP for the
State
ASI Vinod Kumar PS Rohini

+ **BAIL APPLN. 441/2015**

VIKAS BANSAL

Through

..... Petitioner
Mr.Pradeep Kumar Mittal &
Mr.Arn timer, Advs.

versus

STATE OF NCT OF DELHI

Through

..... Respondent
Ms.Alpana Pandey & Mr. M.P.
Singh, APPs for the State.
ASI Vinod Kumar PS Rohini.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ASHUTOSH KUMAR, J. (ORAL)

1. The petitioners seek bail in connection with FIR No.544/2014 (PS North Rohini) instituted for offences under Sections 365/388/384/397/ 506/34 of the IPC.

2. According to the prosecution version, Amit Dhawan, the complainant, who runs a property business along with one Arun Gupta was at his office at Rohini when he was asked for a huge amount of money by two of the accused persons namely Vikas Bansal and Isha Gupta on 09.06.2014 at about 01:00 p.m.

3. When the complainant expressed his inability to arrange for such huge amount of money, petitioner Vikas Bansal went out of the room of the complainant and thereafter came along with four persons, two being men of Sikh community. On point of pistol, the complainant was made to sit in a vehicle. Before that, he was pressurized for committing sexual act with co-accused Isha Gupta in a different room.

4. The prosecution story further reveals that the complainant was brought to a petrol pump and was made to remain seated in a vehicle for about 3 hours. Thereafter, the complainant was taken to Panipat Court premises, where he was made to sign a document relating to transfer of the vehicle of the brother-in-law of the complainant under duress and threat.

5. A case was lodged regarding the aforesaid incident after about two months of the occurrence. During the course of the investigation, the complicity of petitioner Shamsher Singh came to the fore. It was found out by the investigating agency that out of the two persons who had entered the office of the complainant on 09.06.2014, the petitioner Shamsher Singh was one of them.

6. Petitioner Shamsheer is employed in Haryana Police and during the course of investigation, the CDR revealed that he was present along with Vikas Bansal at the concerned place.

7. Learned counsels appearing for the petitioners Shamsheer Singh and Vikas Bansal have stated that other co-accused person namely Rana Pratap Singh who too was sitting in the vehicle when the complainant was brought to the petrol pump and thereafter to the Court premises and Isha Gupta have been granted anticipatory bail.

8. Rana Pratap Singh was granted anticipatory bail by order dated 14.01.2015 by a bench of this Court. While granting anticipatory bail to the petitioner, the bench took note of the fact that the allegations appeared to be improbable in as much as the complainant was made to sit in a car at a public place and thereafter in Tehsil office where there are many people in uniform and other persons who are available during the day. The fact that no effort was made by the complainant to attract the attention of anyone of the public if he was under threat or duress and was kept in confinement, makes the prosecution case highly redolent with doubt and suspicion.

9. Another co-accused ASI Bhagwan has not surrendered to the process of law and has been declared a Proclaimed Offender.

10. After investigation, chargesheet was submitted initially against petitioner Vikas Bansal and thereafter he was put to trial. It is submitted on behalf of the State that in the trial of Vikas Bansal, six witnesses have till now been examined. The petitioner Shamsheer has

been sent up for trial in the supplementary chargesheet. The charges against him have not yet been framed. This Court has also been informed that charges have not been framed against other co-accused also namely Rana Pratap Singh and Isha Gupta.

11. Petitioner Shamsheer is in custody since 01.03.2015 whereas the petitioner Vikas Bansal is in custody since 18.08.2014.

12. Isha Gupta, one of the co-accused had lodged a case against the complainant of the present case namely Amit Dhawan under Section 376 and other sections of the IPC. In the aforesaid case, the complainant stands acquitted as the allegations levelled by Isha Gupta could not be substantiated at the trial.

13. Learned counsels for the State while opposing the prayer for bail of the petitioners submitted that the petitioner Vikas Bansal is the main accused in the case and he has been named in the first instance by the complainant. He is the person who has hatched the conspiracy to kidnap the complainant and had demanded huge amount of money from him. It was he (Vikas Bansal) who first demanded Rs.25-30 lacs and only on the complainant not acceding to such request that he was kidnapped.

14. It has been further submitted by Mr.M.P. Singh, APP, that the complainant was forced into entering in sexual relationship with one of the co-accused Isha Gupta so that he could further, in future, be framed in a serious case of rape.

15. During the course of investigation, it has been submitted that the CDR analysis disclosed his presence along with other accused persons and the complainant at the same location and at the places which have been stated in the FIR.

16. Similarly, Ms.Alpana Pandey, APP, while opposing the prayer for bail of the petitioner Shamsheer, has submitted that as a police officer, he was expected to divulge the vicious plan of the accused persons to the other police authorities but instead of behaving like a police officer, he actually participated in the occurrence and got the offence consummated.

17. Ms.Pandey further submits that the CDR analysis reflects that Shamsheer was all along present with Vikas Bansal and was available in the same area.

18. The further allegation against the petitioner Shamsheer is that he forcibly got the vehicle of the brother-in-law of the complainant transferred in somebodyelse's name in Court premises. The petitioner Shamsheer is also alleged to have divested the complainant of his diamond rings.

19. However, considering the fact that co-accused Rana Pratap Singh and Isha Gupta had been granted the privilege of anticipatory bail and the petitioners are in custody for a long time coupled with the fact that there has not been any substantial progress in the trial against the petitioner Vikas Bansal, this Court is inclined to grant bail to the petitioners.

20. The petitioners shall be released on bail, on their furnishing a bond in the sum of Rs.10,000/- with two sureties of the like amount, to the satisfaction of the Trial Court.

21. It is made clear that the petitioners shall participate in the trial and would not cause any delay in conclusion of the cases.

22. The applications are allowed.

23. Dasti.

ASHUTOSH KUMAR, J

JANUARY 08, 2016
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