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

+ **BAIL APPLN. 2280/2014 & CRL.M.B. 10745/14**

SHRI RAM PHAL

..... Petitioner

Through : Mr.Francis Paul, Advocate.

versus

STATE (NCT OF DELHI)

..... Respondent

Through : Mr.Tarang Srivastava, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

ORDER

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01.03.2016

1. The petitioner seeks anticipatory bail under Section 438 Cr.P.C. in case FIR No.892/2014 registered under Sections 354A/376 IPC at PS Kalkaji. Status report is on record.

2. I have heard the learned counsel for the parties and have examined the file. Petitioner's counsel urged that the allegations against the petitioner are motivated. The petitioner is an aged person and is not involved in the incident. The prosecutrix did not level any allegations of commission of rape in her initial report. The petitioner was not present at the spot and had gone by train to Banda on 24.09.2014.

3. Initially, FIR was lodged on the statement of the prosecutrix 'X' (changed name) aged around 50 years, a blind lady who used to stay in the tin shed opposite Mehtab Dharamshala, Kalkaji Mandir for

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the last 15 / 16 years. She used to beg in the area. In her complaint, she categorically named the appellant for outraging her modesty and pulling her saree when she was sleeping on the footpath. She caught hold the hand of the perpetrator of the crime and raised alarm. She identified the author of the crime as the petitioner by voice. In her 164 Cr.P.C. statement recorded on 29.09.2014 soon after the incident, she levelled allegations of commission of rape. Status report reveals that shop keepers examined during investigation have given statement that the petitioner was at his own shop at Kalkaji Mandir on the intervening night of 28/29.09.2014. The plea of alibi set up by the petitioner could not be substantiated during investigation.

4. Considering the gravity of the offence and the fact that a blind lady aged around 50 years was sexually assaulted by the petitioner, it is not a case for grant of anticipatory bail. It is dismissed.

5. Pending application also stands disposed of.

S.P.GARG, J

MARCH 01, 2016 / tr