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

DECIDED ON : 21st JULY, 2016

+ **CRL.M.C. 146/2015**

POONAM Petitioner

Through : Mr.Charan Singh, Advocate.

versus

THE STATE & ANR. Respondents

Through : Ms.Meenakshi Dahiya, APP for State
Mr.Ravinder Kumar Tyagi, Advocate
for R-2.

**CORAM:
HON'BLE MR. JUSTICE S.P.GARG**

S.P.GARG, J. (Oral)

1. Present petition under Section 439(2) Cr.P.C. has been filed by the prosecutrix / petitioner for cancellation of anticipatory bail granted to the respondent No.2 by the learned Addl. Sessions Judge vide orders dated 17.07.2014 and 12.08.2014 in case FIR No.290/2014 registered under Sections 323/341/342/354/354B/376/506 IPC at PS Harsh Vihar. Petition is contested by respondent No.2.

2. I have heard the learned counsel for the parties and have examined the file. On petitioner's complaint, a case under Sections 323/341/342/354/506 IPC was registered vide FIR No.290/2014 against the respondent No.2 on 11.07.2014. The respondent No.2 moved an application

for anticipatory bail. Vide order dated 17.07.2014, observing that there were no allegations of commission of offence punishable under Section 354 IPC and other offences were bailable in nature, anticipatory bail was granted. Subsequently, after about 24 days on 05.08.2014, the victim recorded her 164 Cr.P.C. statement where she levelled allegations of rape, molestation, insertion of finger in the vagina. Sections 376/354B IPC were added in the FIR. It prompted the respondent No.2 to seek anticipatory bail under those offences. Vide order dated 12.08.2014 the petitioner was granted anticipatory bail. Aggrieved by the said orders, the instant petition has been filed for cancellation of bail.

3. Admittedly, the prosecutrix and the respondent No.2 are related to each other. There appears to be a property dispute between the parties. In the initial complaint lodged on 11.07.2014, the petitioner had not levelled any allegations of rape or sexual abuse. She had categorically stated that she did not sustain any injury; no wrongful act was done with her. She was medically examined. In the alleged history, she did not complain about any sexual assault. It is relevant to note that she was accompanied to the hospital by an NGO lady Paramjeet Kaur. After the respondent No.2 was granted anticipatory bail vide order dated 17.07.2014 in which it was observed that there were no allegations of offence under Section 354 IPC, after an inordinate delay, the prosecutrix recorded her 164 Cr.P.C. statement where she made vital improvements and introduced a new story levelling allegations of sexual assault. No medical examination was conducted thereafter.

4. Charge-sheet is stated to have been filed. There are no allegations if after the grant of anticipatory bail the respondent No.2 ever

misused the liberty. The impugned order dated 12.08.2014 was passed in the presence of the complainant's counsel. The petitioner being duly educated is not expected to omit levelling charge of rape at first instance.

5. Considering the facts and circumstances of the case, I find no sufficient reasons / grounds to cancel the bail granted to the respondent No.2 by the Court below.

6. The petition lacks merits and is dismissed.

(S.P.GARG)
JUDGE

JULY 21, 2016 / tr

