

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

Bail Appln.2253/2015

VIKRAM SINGH @ VICKY

.... Petitioner

Through: Mr.A.K.Singh, Advocate

Versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Hirein Sharma, APP for the State.
Sub Inspector Rajiv Kumar, Police Station
Jaitpur.

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

%

26.02.2016

Vide this application, the petitioner seeks regular bail under Section 439 Cr.P.C in case FIR No. 04/2014 under Section 366/367/376(G)/506/34 IPC and 5(G)/6 of POCSO Act registered at police station Jaitpur, New Delhi on the ground that prosecutrix as well as her mother have not identified the petitioner. Prosecutrix has not even identified her clothes which were sent to FSL. The DNA test also does not connect the petitioner. Petitioner is in custody for last about two years, as such, he be released on bail.

Application is opposed by learned Public Prosecutor for the State on the ground that prosecutrix was subjected to rape by the petitioner as well as co-accused Binder. It is, however, not disputed that the prosecutrix as well as her mother have not identified the accused during the course of their examination and that the DNA result also does not connect the petitioner with the crime. However, it is submitted that the case is at fag end and possibility of fleeing away of accused cannot be ruled out. As such, accused is not entitled to be released on bail.

As per initial statement made by the prosecutrix which resulted in

registration of FIR, she levelled allegation of commission of gang rape by Vicky (petitioner herein) and Binder. However, during her deposition before the Court although she has narrated the incident of commission of rape on her but has exonerated the accused by deposing that he is not the boy who had taken her forcibly and raped her. Her mother Naresh Kumari also turned hostile on the point of identity of the accused. The prosecutrix also did not identify her panty which was produced in the Court. Moreover, as per the DNA report, the same connects the co-accused but there is no report connecting the accused with the crime. In the aforesaid scenario coupled with the fact that as per nominal roll dated 05.02.2016, the petitioner is in judicial custody for the last two years, he is admitted to bail:

- (i) On furnishing personal bond in the sum of Rs.25,000/- with one surety in like amount to the satisfaction of learned Trial Court;
- (ii) He is further directed not to contact the prosecutrix or any prosecution witnesses and not to administer any threat or coerce them;
- (iii) He is also directed to furnish his address as well as contact number to the SHO concerned as well as the learned Trial Court.

It is clarified that nothing stated herein shall tantamount to an expression of opinion on the merits of the case.

Application stands disposed of.

Order dasti.

SUNITA GUPTA, J

FEBRUARY 26, 2016

mb