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

+ BAIL APPLN. 2649/2015

KULDEEP SHARMA

..... Petitioner

Through

Mr. Lokesh Kumar Mishra & Mr. Sameer
Ojha, Advocates

versus

STATE (GOVT OF NCT DELHI)

..... Respondent

Through

Mr. Akshai Malik, APP for the State.
Sub Inspector Pinki Rana, Police Station
New Ashok Nagar, Delhi.
Complainant is present in person.

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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03.03.2016

Bail Appln. 2649/2015

This is an application under Section 438 Cr.PC moved by the petitioner for grant of anticipatory bail in FIR No. 1327/2015 under Section 376/377/354/506/509/34 IPC registered at Police Station New Ashok Nagar.

Counsel for the petitioner submits that there is an inordinate delay of five years in lodging the FIR. After the registration of this FIR, the prosecutrix herself wrote a letter to the SHO, Police Station Ashok Nagar dated 12.10.2015 alleging that no rape was committed upon her by any person and she wants withdrawal of the FIR.

Prosecutrix is present in person and admits her signatures on this complaint which was received by the Investigating Officer in the Police Station.

Counsel for the petitioner also refers to the affidavit filed by the prosecutrix before the learned Metropolitan Magistrate, wherein, she reiterated that no rape has been committed upon her at any point of time by any person and no threat was given to her by any person. She also moved an application before the learned Metropolitan Magistrate that her statement under Section 164 Cr.PC may be re-recorded, however, the application

was declined but the fact remains that according to the prosecutrix herself, no such incident took place.

Counsel for the petitioner further submits that the prosecutrix is about 31 years old. She is married having two children. One of the co-accused has already been granted bail by this Court vide order dated 18.11.2015 in view of the submissions made by the prosecutrix that the FIR was got registered due to misapprehension and misunderstanding. Few other accused were granted police bail.

Prosecutrix is present in person and admits that as regards co-accused Vivek Choudhary is concerned, she has made the submission before this Court which resulted in granting him bail, however, qua the petitioner, it is alleged that he has threatened her but on repeated queries, she could not give the date when such threat was administered to her. She admits that no such complaint was given in writing against him.

Keeping in view the totality of the facts and circumstances of the case, it is ordered that in the event of his arrest:-

- (i) Petitioner be admitted to bail on his executing personal bond in the sum of Rs.20,000/- (Rupees Twenty Thousand only) with one surety in the like amount to the satisfaction of the concerned I.O./SHO.
- (ii) He shall join the investigation as and when called for by the I.O.
- (iii) He shall furnish his address as well as his contact number to the Investigating Officer.
- (iv) He shall not threaten or coerce complainant or any prosecution witness.

The application is accordingly disposed of.

Copy of this order be given *dasti* to counsel for the petitioner.

SUNITA GUPTA, J

MARCH 03, 2016

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