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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2758/2015

VIDYA PRAKASH

..... Petitioner

Through

Mr Prateek Mehta, Mr Sourabh Khaneja and
Mr Harish Kaushik, Advs.

versus

STATE OF NCT OF DELHI & ANR

..... Respondent

Through

Mr Hirein Sharma, Additional Public
Prosecutor for the State alongwith Sub
Inspector Babita Police Station Punjabi
Bagh, Delhi

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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21.04.2016

By this application under Section 438 of Cr.PC, the petitioner seeks anticipatory bail in case FIR No.1076/2015 under Sections 354/506/34 IPC registered at Police Station Punjabi Bagh, New Delhi.

The FIR in the instant case was registered on the basis of a written complaint made by 'P' alleging therein that she is preparing for PMT at Naraina IIT/PMT Academy at Punjabi Bagh since 25.04.2015. The petitioner is working as a guard and misbehaving with her for the last two and a half months. He told her that he likes her and asked her to come and meet her at the room situated at the upper floor of Naraina Academy and in case she stays with him then she will lead a luxurious life. He also told her that he is not married and wants to stay with her. However, she pushed him back and told him that she will tell everything at her home. She informed at her home. Then he was shifted from that institute to another centre. On 11.10.2015 at about 6.30 pm when she was going back after completion of her classes, he pulled her before Shivaji Park Metro Station and with the help of two boys, he took her into one washroom and both the boys hold her hand and her mouth was closed. Then he smooched her and scratched her badly at her upper part of body and told that he will not let her marry. He also broke her mobile phone and ran away with both the boys.

It is submitted by counsel for the petitioner that the complainant concocted a false

story just to malign the image of the petitioner. The complainant, her uncle and aunt are known to each other as both are distant relatives and native of Eastern U.P. Due to rivalry, he has been falsely implicated in this case. Reliance was placed on the CCTV footage for submitting that at the time of said incident, the petitioner was present in the institute's office and the complainant was comfortably walking with her friend near Shivaji Park Metro Station which falsifies her version of alleged sexual assault. The petitioner is ready to join investigation, as such he be granted anticipatory bail.

In the status report, although the CCTV footage submitted by the petitioner has been verified by the State which shows that the complainant and her friend were walking near Shivaji Park Metro Station in front of C-3, Shivaji Park, Punjabi Bagh, Delhi and her friend Joyti did not disclosed anything about the incident. However, it is submitted that according to the complainant the CCTV footage is after the incident. Moreover, reliance was placed on the medical examination of the complainant which reflects the multiple nail marks on her breast and neck and multiple abrasion nail marks on her neck. In her statement under Section 164 Cr.PC the prosecutrix has supported her version given in the FIR. The raids were conducted at the address and hideouts of the petitioner and it is reported that he is avoiding his arrest. It is, therefore, submitted by learned Additional Public Prosecutor for the State that keeping in view the seriousness of the offence, the petitioner does not deserve anticipatory bail and the application be dismissed.

Needless to say the allegations against the petitioner are serious. The prosecutrix is a minor girl of 17 years who had come to Delhi for taking coaching as she is preparing for IIT/PMT. A detailed version was given by her in her statement recorded under Section 164 Cr.PC as to how the petitioner smooched her, removed her t-shirt and opened her bra and gave bite blows with teeth on the breast of the prosecutrix and also scratched on her body. The medical examination of the prosecutrix also reflects multiple nail marks on her breast and neck and multiple abrasion nail marks on her neck. Although the petitioner has alleged that there was a rivalry between the uncle / aunt and the petitioner as they belong to the same place, however, it is not disclosed as to what was the dispute between the uncle of the prosecutrix and the petitioner which led to registration of the FIR and how the medical examination of the prosecutrix corroborated her statement

made in the FIR as well as under Section 164 Cr.PC.

As regards the CCTV footage is concerned, as per the status report, according to the complainant, the same was after the alleged incident. As to why her friend Jyoti did not disclose about the incident or by the prosecutrix is not disclosed the same to her is a matter of trial.

Keeping view the seriousness of the allegations, I do not deem it appropriate to grant anticipatory bail to the petitioner. The bail application is accordingly dismissed.

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

The interim protection granted to the petitioner on 06.01.2016 and continued thereafter stands vacated.

SUNITA GUPTA, J

APRIL 21, 2016/*rd*