

S-36 & 12

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

+ CRL.REV.P. 700/2016

NARESH KUMAR

..... Petitioner

Through: Mr. Pradeep Kumar Arya & Mr. C.L. Sharma & Mr. Raj Karan Sharma, Advocates.

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: Mr. Akshai Malik, APP for the State. with SI Ram Bhau, PS Khyala.

+ BAIL APPLN. 70/2017

SOHAN LAL GANESH

..... Petitioner

Through: Mr. Vibhor Verdhana, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Akshai Malik, APP for the State with SI Ram Bhau, PS Khyala.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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05.05.2017

By the captioned criminal revision petition challenge is brought to the order dated 3.10.2016 of the Court of Additional Sessions Judge (Fast Track Court) -01, West, Tis Hazari Court, Delhi whereby charge was framed against the petitioner and two others for offence under Section 376-D IPC while separate charge was framed under Section 376 IPC against another co-accused.

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The captioned bail application has been moved by one of the accused persons facing the trial, the charge framed against him being for the offence under Section 376-D IPC.

After some hearing, the learned counsel for the petitioners in both these matters seek permission, on instructions, to withdraw the revision petition and bail application but request that directions may be given to the trial court to expedite the recording of the statement of the prosecutrix, reliance of the defence essentially being on the discrepancies in her statements, one leading to the registration of the FIR, the second under Section 161 Cr.P.C. and the third under Section 164 Cr.P.C.

It is noted that after the charge had been framed and the case had entered trial, the prosecutrix stood summoned for evidence for 30.01.2017. But since the trial court record had been requisitioned by this Court for purposes of captioned revision petition, the evidence could not be recorded. The trial court record reveals that the case now stands listed for purposes of recording of the evidence on 26.08.2017 and for consideration of the application for bail of one of the accused persons on 23.05.2017.

The learned counsel for the petitioners in both these matters submit that they would move fresh applications for bail after the statement of prosecutrix has been recorded as a prosecution witness at the trial.

Given the state of trial court record, particularly the three statements of the prosecutrix referred to above, the submission of the petitioners for directions for expediting the recording of evidence of the prosecutrix seem to be justified.

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For the foregoing reasons, while dismissing the revision petition and the application for bail as withdrawn, it is directed that trial court shall pre-pone the date of hearing in the matter pending before it for purposes of recording of statement of the prosecutrix on an early date, preferably within this month itself. It is hoped that the defence counsel for all the persons who are facing trial would cooperate with the trial court in this endeavour.

The petitioners shall appear before the trial Court for further necessary directions in above light on 11th May, 2017. Needless to add, while fixing an early date for recording the evidence of prosecutrix, the trial court will take requisite steps to secure the presence of other accused and also have the summons served on the prosecutrix.

The trial court record shall be returned forthwith with a copy of this order.


R.K.GAUBA, J.

MAY 05, 2017

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