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

+ **BAIL APPLN. 2012/2016**

RAJU SHAH

..... Petitioner

Represented by: Mr. R.S. Chaggar, Advocate.

versus

STATE

..... Respondent

Represented by: Ms. Rajni Gupta, APP for the
State with W/SI Sushil, PS S.P.
Badli.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

10.02.2017

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1. By the present petition the petitioner seeks bail in case FIR No.1054/2015 under Sections 376 IPC registered at PS Samaipur Badli, Delhi.

2. Learned counsel for the petitioner submits that the petitioner is in custody since 4th September, 2015 and despite repeated dates being given for appearance of the prosecutrix till date her whereabouts are not traceable and she has not been examined. Thus the petitioner cannot be made to endlessly languish in jail awaiting the appearance of the prosecutrix before the learned Trial Court.

3. In the above noted FIR the prosecutrix alleged that she was residing with her husband who was a beldar. She was a permanent resident of Kolkata whereas her husband was permanent resident of Etah, Uttar Pradesh and had arrived 40 days prior to the incident with her husband to Delhi. On

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2nd September, 2015 her husband fell ill therefore, he went to the village and her husband asked the petitioner to look after the prosecutrix. The petitioner resided at Samaipur Badli with his wife and children. On 3rd September, 2015 in the night at about 9.00 PM the petitioner came to her room and asked for food. After they ate the dinner, it is alleged that the petitioner raped the prosecutrix without her consent and from there he took her in a Tempo and left at Sindhu Border.

4. During the course of trial, four witnesses have been examined however, despite repeated summons to the prosecutrix her whereabouts are not traceable. The Investigating Officer has made several attempts to serve the summons on the prosecutrix and on 4th February, 2017 statement of the Investigating Officer has been recorded by the learned Trial Court stating that despite her best efforts the prosecutrix could not be traced. Since the prosecutrix is not traceable at the moment and the trial is likely to take some time, this Court deems it fit to grant bail to the petitioner.

5. It is, therefore, directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court, further subject to the condition that he will not leave the country without prior permission of the Court concerned and in case of change of address the same will be intimated to the learned Trial Court by way of an affidavit.

6. Petition is disposed of.

7. Order dasti.

MUKTA GUPTA, J.

**FEBRUARY 10, 2017/‘vn’
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