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

+ **BAIL APPLN. 2585/2016**

SANJEEV RAJPUT

..... Petitioner

Represented by: Mr. K.K. Manan, Sr. Advocate
with Ms. Anjali Rajput,
Advocate.

versus

STATE (NCT OF DELHI)

..... Respondent

Represented by: Ms. Meenakshi Chauhan, APP
for the State with SI Asha, PS
Chankya Puri.
Mr. Pramod Kumar, Mr. Jabar
Singh and Mr. Nikhar Beri,
Advocates for the complainant.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
13.01.2017

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1. By the present petition, the petitioner seeks anticipatory bail in case FIR No. 198/2016 under Sections 376/328 IPC registered at PS Chankya Puri, Delhi wherein later on Section 506 IPC was also added.

2. Learned counsel for the petitioner submits that the petitioner is a national level player-cum-coach for shooting and the complainant was taking training from him. In the FIR, the complainant levelled allegations of rape at her house in the 'evening' after being given something in the drink. For the incident dated 12th November, 2016 the FIR was got lodged only on 1st December, 2016 after a lapse of 18 days. The petitioner filed an application seeking anticipatory bail which came up for hearing before the

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learned Additional Sessions Judge on 7th December, 2016. During the course of hearing of the said application the petitioner pointed out that the version of the prosecutrix was wholly incorrect for the reason 12th November, 2016 happened to be the birthday of the prosecutrix, when from the shooting range the petitioner, the prosecutrix and two of her friends went to the Mall DLF Saket and had dinner over there. Thus her version that the petitioner came to her house in the 'evening', gave her something to drink and committed rape was falsified.

3. Learned counsel for the petitioner further states that after the petitioner brought all these facts, statement of the prosecutrix was recorded under Section 161 Cr.P.C. and 164 Cr.P.C. on 10th December, 2016 wherein she admitted that she along with the petitioner had gone to Mall DLF Saket and had dinner with friends at the food court however, she alleged that from the food court they left separately and the petitioner after fifteen minutes reached her house and committed the offence. Thus the incident from the 'evening' shifted to that of 'night' at around 10.00 PM.

4. Learned APP for the State vehemently opposing the anticipatory bail application on instructions submits that the statement of the prosecutrix under Sections 161 and 164 could not be recorded earlier as she was not available in Delhi. It is further contended that the FIR need not record the entire version.

5. Heard learned counsels for the parties. The allegations of the complainant in the FIR are that she was an international shooting player and was under the training of renowned Olympian Sanjeev Rajput in the month of July, 2016. Sanjeev Rajput was aged about 35 years and mooted a

proposal for marriage before the complainant which she accepted. Thereafter they used to frequently meet at shooting range and the complainant requested Sanjeev Rajput to introduce her to his family after which Sanjeev Rajput introduced her to his father. On 12th November, 2016 on her birthday in the 'evening' Sanjeev Rajput came to her house and mixed some intoxicated substance in the cold drink and raped her. All of a sudden after one week Sanjeev Rajput called her up and stated that he won't marry her and when she asked the reason as to why he cheated her like this to that he stated that he was in this habit and he was never serious for marriage. Despite On the repeated requests of the complainant no reply was forthcoming. When the prosecutrix tried to talk to him at the shooting range, he asked her not to talk to him and that he would kill her and she will not be able to go back from the shooting range. Due to this, her game was affected and she was mentally and physically depressed. It was alleged that Sanjeev Rajput allured her in his sweet talks and committed sexual assault on her on the false promise of marriage.

6. This Court has perused the case diaries. From the case diaries it is apparent that on 1st December, 2016 a written complaint was given by the prosecutrix for the alleged incident of 12th November, 2016. When she was asked to be medically examined, she refused. As per the case diary of 2nd December, 2016 despite the Investigating Officer waiting for the prosecutrix to appear for the medical examination she did not report. On 3rd December, 2016 the prosecutrix appeared and on a written application moved for her medical examination, she refused to get herself examined. The case diary and the statement under Section 161 Cr.P.C. recorded on 3rd December,

2016 also note the reiteration of her version in the FIR where again the prosecutrix does not state that the petitioner had joined the prosecutrix and two others for celebrating her birthday at the Mall and that the incident did not take place in the 'evening' but at 'night'.

7. It is apparent, that the prosecutrix was available to the Investigating Officer till 7th December, 2016 as she appeared and her statement under Section 161 Cr.P.C. was recorded on 3rd December, 2016 but no efforts were made to record the statement under Section 164 Cr.P.C. For the first time application was moved for recording of the statement under Section 164 Cr.P.C. on 10th December, 2016 after the petitioner had disclosed the facts during the hearing of the anticipatory bail application and thus the statement under Section 164 Cr.P.C. recorded on 10th December, 2016 notes the entire incident. During the course of investigation now the prosecution has also collected mobile phone call records of both the petitioner and the prosecutrix which reveals that they were both first at Faridabad, then in the area of DLF Mall Saket and then in the area of the residence of the prosecutrix.

8. Considering the fact that there are material improvements in the statement of the prosecutrix under Section 164 Cr.P.C. this Court deems it fit to grant anticipatory bail to the petitioner. It is, therefore, directed that in the event of arrest the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with one surety of like amount, subject to the satisfaction of the Arresting Officer/SHO concerned, further subject to the condition that the petitioner will join the investigation as and when directed by the Investigating Officer and will inform the Court about the itinerary and place of residence whenever he leave the country.

9. It is however, clarified that the observations of this Court recorded above are not a final expression of opinion on the merits of the case.
10. Petition is disposed of.
11. Order dasti.

MUKTA GUPTA, J.

JANUARY 13, 2017
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