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

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Judgment delivered on: 09.05.2018

+ **BAIL APPLN. 284/2018**

RAJEEV CHAUHAN

..... Petitioner

versus

THE STATE GOVT. OF NCT OF DELHI

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Bharat Sharma with Mr Rinku Kumar Garg.

For the Respondents : Mr.G.M.Farooqui, APP.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

09.05.2018

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks bail in FIR No.18/2017 under Sections 376/363/328/506 IPC, Police Station Kalyan Puri & Section 6 POCSO Act.

2. The allegations against the petitioner are that the petitioner, who was known to the prosecutrix had, by misleading the prosecutrix, taken her to his house, on the pretext of giving her some notes. When the prosecutrix reached his house, the family members of the petitioner were not there.

3. It is alleged in the FIR that the petitioner thereafter gave her coffee to drink and she became unconscious and later realised that physical relations were made by the petitioner without her consent.

4. Learned counsel for the petitioner submits that examination-in-chief of the prosecutrix has been partly recorded wherein she has stated contrary to what is recorded in the FIR as well as in her statement under Section 164 of the Code of Criminal Procedure (Cr.P.C.).

5. Learned counsel for the petitioner submits that before the Trial Court, she has stated at the time of recording of her Section 164 Cr.P.C. statement, she had deposed, as per what was stated by the Police and the neighbours.

6. Learned counsel for the petitioner further points out that the testimony of the prosecutrix has been deferred to await the result from the Forensic Science Laboratory (FSL). He submits that in response to a Right to Information (RTI) Application, as on 23.04.2018, the result of the FSL was not ready. He submits that the trial is likely to get further delayed and there is no material to substantiate the allegations in the FIR.

7. Learned Additional Public Prosecutor for the State submits that the cross-examination of the prosecutrix is not yet concluded and she has not yet been declared hostile.

8. It is seen from the record that statement of the prosecutrix was recorded on 19.01.2018 and was subsequently deferred from time to time to await the result of the FSL. In her testimony, she has stated that there was a quarrel that took place between her family members on one side and the petitioner on the other and thereafter Police was called. She has stated that *“no enquiry was made by the Police from me and at the instance of the Police Officials, she was made to write a complaint”*.

9. Further, with regard to her testimony under Section 164 Cr.P.C. recorded by the Metropolitan Magistrate, she has stated that she informed the Court whatever she stated was told by the Police and neighbours.

10. The petitioner has been in custody since 18.01.2017.

11. Keeping in view the facts and circumstances of the case, without commenting on the merits of the case, perusal of the record shows that the petitioner has made out a case for grant of bail.

12. In view of the above, the petitioner shall be released on bail, if not required in any other case, subject to petitioner furnishing a bail personal bond in the sum of Rs.50,000/- with one surety of like amount to the satisfaction of the Trial Court.

13. Further, it is directed that the petitioner shall not do anything, which may either prejudice the trial or the prosecution witnesses. The petitioner shall not leave the country without permission of the Trial Court. The petitioner shall not contact the prosecutrix or her family members.

14. The Petition is disposed of in the above terms.

15. Order Dasti under signatures of the Court Master.

SANJEEV SACHDEVA, J

MAY 09, 2018

‘Sd’