

\$~60

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

%

Judgment delivered on: 03.05.2018

+ **BAIL APPLN. 442/2018**

SAGAR

..... Petitioner

versus

THE STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr Sunil Dalal and Mr Parvinder Shehrawat.

For the Respondent : Mr Mukesh Kumar, Addl. PP for the State
SI Neetu, PS K.N.Katju Marg.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

03.05.2018

SANJEEV SACHDEVA, J. (ORAL)

Crl.M.A.No.3450/2018(exemption)

Allowed, subject to all just exceptions.

BAIL APPLN. 442/2018

1. Petitioner seeks anticipatory bail in case FIR No.453/2017 under Sections 376-D/365 IPC, Police Station K.N.Katju Marg.
2. As per the status report, it is mentioned that on 13.12.2017, non-bailable warrants were issued against the petitioner and thereafter, on

16.01.2018, proceedings under Section 82 of the Code of Criminal Procedure (Cr.P.C.), were initiated.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the subject case.

4. The allegations in the FIR are that the victim, who had come to Delhi from Calcutta, was abducted by about four individuals at 10:30 pm when she had stepped out of her sister's house to go to the market. The accused are alleged to have taken her in a vehicle to a house and thereafter five accused are stated to have raped her repeatedly.

5. As per the prosecution, the victim could manage to escape at about 3:30 in the morning and contact her sister through the phone that she was carrying. Her sister asked her to come near a temple which was familiar to her being an outsider. While she was on her way to the temple she met her sister and brother-in-law and two of the accused were, at that point of time, chasing her. The sister is alleged to have called the Police Control Room and the two accused were apprehended from the spot.

6. Learned counsel for the petitioner contends that there are several discrepancies in the version of the prosecutrix and further contends that the call detail records of the sister, as obtained by the Investigating Officer, shows that there were to and fro calls between the victim and her sister commencing from 1:31 am upto 2:51 am. It

is contended that as many as six calls are alleged to have been made lasting into several minutes each. Learned counsel for the petitioner submits that apart from other discrepancies, this discrepancy alone completely falsifies the story of the prosecution.

7. Further, counsel for the petitioner submits that the prosecutrix has even filed an affidavit before the Trial Court retracting from the version recorded in the FIR.

8. It is also noticed that a co-accused Mohit Chawla has been granted regular bail by judgment dated 05.04.2018 of this Court in Bail Appln. No.675/2018 titled *Mohit Chawla versus The State (NCT of Delhi)* and the role ascribed to the present petitioner is identical.

9. Without commenting on the merits of the case, perusal of the record shows that the petitioner has made out a case for grant of anticipatory bail. Accordingly, in the event of arrest, the petitioner shall be released on bail by the Investigating Officer/Arresting Officer/SHO on his furnishing a personal bond in the sum of Rs.50,000/- with one surety of like amount to the satisfaction of the Trial Court.

10. Further, it is directed that the petitioner shall not do anything, which shall either prejudice the investigation 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.

11. In view of the directions issued today, the non-bailable warrants, pursuant to directions issued vide order dated 13.12.2017 of the Trial Court and the proceedings under Section 82 Cr.P.C. are quashed, since the petitioner has admittedly joined investigation in terms of orders of this court.

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

13. Order Dasti under signatures of the Court Master.

SANJEEV SACHDEVA, J

MAY 03, 2018/5p'

नस्यमेव जयते