

\$~13

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

+ **BAIL APPLN. 449/2018**

SURENDER MALIK Petitioner

Represented by: **Mr.Vijay Dahiya, Advocate**

versus

THE STATE GOVT OF NCT OF DELHI Respondent

Represented by: **Mr.Amit Gupta, APP for the State
with W/SI Sushila and SI D.P.Singh,
PS S.P.Badli
Mr.Biram Singh and Mr.Mahavir
Singh, Advocates for the complainant**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

%

26.04.2018

1. By this petition, the petitioner seeks anticipatory bail in case FIR No.980/2017 under Sections 354/354(B)/506/509 IPC registered at PS Samaipur Badli wherein Section 376 IPC was added later on after the statement of prosecutrix was recorded under Section 164 Cr.P.C.

2. The allegations of the prosecutrix in the FIR in question are that on 4th October, 2017, at about 10:00 PM when she returned to her house after meeting her friends, petitioner had hidden himself near the staircase of her house and he caught hold of her from behind. When she tried to release herself and screamed, the petitioner closed her mouth and squeezed her breast. He also abused her and put his hands on her thigh. When she tried to wake up her brother-in-law, Ravinder, he did not wake up as he was under the influence of alcohol so she told these facts to her son Vijay Pal

BAIL APPLN. 449/2018

page 1 of 3

who called at number 100.

3. After registration of the above noted FIR when the statement of prosecutrix was recorded under Section 164 Cr.P.C. besides reiterating what she had stated in her complaint, she also alleged that the petitioner put his hand in her private parts. Thus, Section 376 IPC was added.

4. Case of the petitioner is that a false case had been foisted against the petitioner by Ravinder, a person with whom the prosecutrix is living with by lodging FIR No.156/2017 under Section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act at PS S.P.Badli wherein a charge sheet was filed stating that the allegations of Ravinder were not substantiated and the petitioner was granted bail by the learned Trial Court immediately on surrender. As petitioner got bail in FIR No. 156/2017 complainant who is in live in relationship with Ravinder foisted the above mentioned FIR to again falsely implicate the petitioner. Learned counsel further states that the petitioner is also suffering from Squamous Cell Carcinoma in the left toe and is under treatment at Rajiv Gandhi Cancer Institute and Research Centre, which fact has been verified as per the status report.

5. Considering the fact that in the FIR, the prosecutrix did not level any allegation under Section 376 IPC, the past history of lodging FIR No. 156/2017 against petitioner by Ravinder wherein as per the charge sheet claim of Ravinder is not substantiated, and also the fact that the petitioner has already joined the investigation, 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 bond of the like amount subject to the satisfaction of the Arresting Officer/SHO concerned further subject to the condition that the petitioner would join the investigation as and when directed and in case of change of residential address, the same will be intimated to the Court concerned.

6. Petition is disposed of. Order dasti.

MUKTA GUPTA, J.

APRIL 26, 2018/mamta