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

+ BAIL APPLN. 1632/2018

ARUN RAI

..... Petitioner

Through: Mr. S.K. Rai, Adv.

Versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Amit Chadha, APP for State with  
ACP Dhall Singh, SHO Sanjay Singh and SI  
Arvind, P.S. Jait Pur.

Mr. Sanjeev Bhandari, SPP for CBI.

**CORAM:**

**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**ORDER**

% **28.09.2018**

An affidavit has been filed on behalf of the Delhi Police stating that they have taken appropriate action apropos the movement of trucks loaded with building material in the jurisdiction of Police Station Jaitpur.

The petitioner had complained to the police about illegal construction being carried out in the neighbourhood and had requested that due action be taken. He has submitted that instead of taking action as per law against the unauthorized constructions, some police officials in connivance with builders have falsely implicated the petitioner in the FIR No.546/2017, registered at Police Station Jaitpur, New Delhi, and have put him behind bars. The petitioner has filed photographs of the unauthorized construction at pages 43 to 51 to the petition, showing buildings under construction. Subsequent photographs also have been filed, showing the buildings fully

constructed. It is the petitioner's case that this large scale unimpeded unauthorized construction could not have happened without the connivance and knowledge of multiple authorities including the South Delhi Municipal Corporation as well as the SHO and other senior officers of Delhi Police, of the area concerned. The Court would tend to agree with the said submission because due action would have been taken by the local police when the trucks, loaded with building material entered the jurisdiction of the local Police Station. Even assuming that the police issued challans, it was required to be seen that the said building material was not being used for any illegal purpose. Reliance on Standing Orders as well as Circular nos. 22/2012 and 51/2013 is rather innocent and would not be a ground for the police for letting the trucks travel to their destination, within the jurisdiction of Police Station Jaitpur, knowing fully well that the same would be used for illegal construction. The role of the Municipal Corporation apropos the unauthorized construction is not adequately detailed either, in the Status Report. Clearly, the buildings could not have come up in the manner they have, without the knowledge of either the police or the Municipal Corporation.

In view of the above, the matter requires to be examined by another investigating agency apropos the role of various authorities and officials in the illegal construction of the properties mentioned in the petitioner's complaint. It is directed that the same be looked into by the Central Bureau of Investigation (CBI).

Mr. Sanjeev Bhandari, the learned Special Public Prosecutor of the CBI is present in the Court and he has been apprised of the order. He submits that appropriate action will be taken by the CBI.

This order would not in any way, be interpreted, as a sanction for the demolition of the aforesaid buildings. Action apropos the illegal constructions would be taken only in accordance with law, which ordinarily would entail due notice to the property owner/occupant, etc.

The petitioner seeks bail. However, Mr. Amit Chadha, the learned Additional Public Prosecutor for the State draws the Court's attention to the order dated 07.05.2016 of the ASJ-01-SE, Special Court (POCSO), Saket Courts, New Delhi whereby the petitioner's bail application was dismissed as withdrawn. He submits that insofar as there is no order of the Trial Court declining bail to the petitioner, this petition would not be maintainable. His subsequent application for anticipatory bail before this Court was dismissed on 14.05.2018 recording as under:

*"2. I have heard the learned counsel for the parties and have examined the file. Earlier the petitioner was granted interim protection by this Court by an order dated 11.12.2017. On 20.04.2018 the said bail petition was disposed of granting protection for 15 days against arrest to the petitioner to enable him to move an application for regular bail before the court concerned. The application for regular bail, if so moved, was to be decided on merits.*

*3. It is informed that during the protection period, the petitioner had filed an application seeking regular bail before the court concerned. Seemingly, the petitioner did not put appearance before the court. Order dated 07.05.2018 of learned Additional Sessions Judge reveals that the petitioner opted to withdraw the application for bail. No plausible explanation has been offered by the petitioner as to what prompted him to withdraw the application moved before the trial court.*

*4. In the statement under Section 164 Cr.P.C. the prosecutrix aged around 17 years has levelled serious allegations of gang rape by the petitioner and the other associates whose bail applications*

*have been dismissed by the trial court by an. order dated 07.05.2018. The petitioner was named in the 164 Cr.P.C. statement.”*

In view of the above, the relief for bail cannot be granted.

The petition is disposed-off in terms of the above.

**NAJMI WAZIRI, J**

**SEPTEMBER 28, 2018/acm**