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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4112/2018 & CRL.M.A. 30004/2018**

RAJBALA

..... Petitioner

Through: Mr. Javed Ahmad with Ms. Syed
Maria Aiyaz, Advocates.

versus

STATE & ORS

..... Respondents

Through: Mr. Ravi Nayak, APP for State.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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14.08.2018

The petition at hand invokes the inherent jurisdiction of this Court under Section 439(2) of Code of Criminal Procedure, 1973 (Cr.P.C.) to seek cancellation of the order dated 07.07.2018 whereby the second respondent, an accused in case FIR No. 439/2018 of Police Station Mukherjee Nagar for the offence punishable under Section 376 of Indian Penal Code, 1860 (IPC) has been released on bail pending the proceedings in the criminal case registered on the basis of charge-sheet that was presented.

The petitioner is the prosecutrix of the said case. It is petitioner's own submission that this Court had granted protection to the accused against arrest till charge-sheet was presented. The charge-sheet thus was filed without the accused being arrested. It also does appear that the sessions court where the case has been committed, by order dated 04.06.2018, took note, *inter alia*, of this fact and the facts concerning FIR No.311/2018 of Police Station Shahbad Dairy regarding an incident that had occurred on

01.06.2018 and declined the application of the accused for release on bail taking him in custody. By the subsequent impugned order recorded on 07.07.2018, the sessions court further noted that the FSL report would not support the case of the prosecutrix regarding forcible sexual intercourse. It also took note of the facts concerning FIR No.311/2018 wherein two “unknown” persons had allegedly abused the prosecutrix and her husband extending threats to her involving offences punishable under Sections 323/341/427/506 IPC. The sessions court had also noted that the accused has been a gazetted officer with a governmental institute based in Karnal (Haryana) and the chances of he fleeing from justice are quite remote, he having undertaken not to come in contact with the prosecutrix directly or indirectly nor to leave the country without prior permission of the court. In these circumstances, the sessions court has taken a balanced view on the question of release on bail which, even otherwise, is the general rule, denial being an exception.

In the given facts and circumstances, there is no good case for interference by this Court. The petition and the accompanying application are dismissed.

R.K.GAUBA, J

AUGUST 14, 2018
srb