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

+ **BAIL APPLN. 2022/2018**

VINEET MITTAL

..... Petitioner

Through: Mr. Vikas Pahwa, Senior Advocate with
Mr. Sharad Bansal, Ms. Sahiba Singh,
Mr. Karan K., Mr. Sumer Singh Bopoarai,
Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Kuldeep, Special Staff/NW.
Mr. Sumit Choudhary, Adv. with
Ms. Aakanksha Bansal, Adv. for
complainant.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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29.08.2018

CrI.M.A. 30967/2018 (exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

BAIL APPLN. 2022/2018

In the First Information Report (FIR) No.228/2018, registered on 10.06.2018 by Police Station Subhash Place, at the instance of Rupesh Gupta, allegations have been made of offences punishable under Sections 384/389/120-B of Indian Penal Code, 1860 (IPC) having been committed, amongst others, by a woman who is prosecutrix in an earlier case registered

as FIR No.290/2018 dated 05.05.2018 at Police Station Bhiwadi, Rajasthan involving offences punishable under Sections 328/376-D IPC, the incident allegedly involved in the said case having occurred during the night intervening 4th – 5th May, 2018 in a hotel in Bhiwadi. The investigation into the case of gang rape at Bhiwadi has since been completed and the charge sheet presented in the competent criminal court at Bhiwadi, the accused persons summoned therein including Rakesh Mangla, brother of the first informant in the present FIR No.228/2018.

As per the case set up in the present FIR, the prosecutrix of the gang rape and those connected to her including the petitioner herein had committed certain acts of commission or omission, they constituting an offence primarily of extortion and pursuant to the same they having demanded and settled to accept Rs.2.40 crores and having received Rs.1.10 crores as the initial instalment, the demand having later been raised to Rs.5 crores, out of which Rs.25 lacs was allegedly being tendered on 10.06.2018 when certain arrests were made. The petitioner has been named as one of the alleged conspirators in the said acts of commission or omission, he being the brother of Vikas Mittal, described as the prime accused, the said Vikas Mittal being an acquaintance of the prosecutrix in the gang rape case.

It is shown from the documents on record that the charge sheet dated 07.08.2018 has already been submitted in the court of Metropolitan Magistrate sending the said prosecutrix of the gang rape case, Mohit Goyal and Vikas Mittal for prosecution, the police having indicated that a supplementary charge sheet would be filed on the basis of forensic report

and also respecting the role of Vineet Mittal in the criminal conspiracy, the same yet to be ascertained in view of the then application for bail pending (before the court of sessions).

It is also shown from the record that bail application No.2634/2018 of the petitioner was pending around the said time, he having been given some protection against arrest by interim orders, but the same having eventually been dismissed by order dated 14.08.2018 of the court of Sessions.

The status report has been filed. The State as well as the first informant of the case, who is present through counsel, resist and oppose the prayer for anticipatory bail. All sides have been heard and the record has been perused.

Though the learned senior counsel made endeavour to argue that on the given facts, a case for extortion cannot be made out for the reason the accusation of gang rape had already been levelled and there was no threat in that sense of the term for said accusations to be made in consideration of money which was demanded. His explanation is that the initiative for “*settlement*” had come from the side of the persons accused in the gang rape case and the prosecutrix and those on her side had participated in the talks for settlement in the hope of resolving the said dispute amicably.

Though there is some merit in the submission of the learned senior counsel about the initiative for settlement having come from the side of the accused persons in the gang rape case, inasmuch as this is what is the import and effect of allegations in their part of the FIR, this court, at this stage of the proceedings refrains from making any observations on the issue as to whether charge of extortion can be laid against the above noted backdrop.

Be that as it may, going by the averments in the charge sheet dated 07.08.2018, the probe against the petitioner is based on his contact with the prosecutrix of the gang rape case for more than thirty-six times. The learned senior counsel submitted that this was not unusual or out of ordinary, inasmuch as he was acquainted with the prosecutrix and they had been in telephonic contact since atleast December, 2017. The charge sheet already submitted *qua* the other accused itself discloses that the petitioner did join investigation atleast three times. The allegations that he did not co-operate or give any “*satisfactory reply in cross-examination*” cannot by itself lead to inference of his complicity, the allegations of non-co-operation being vague.

Be that as it may, there is no doubt that his role will have to be properly investigated into but at the same time no good reason shown as to why he should be subjected to custodial interrogation.

For the above reasons, the petition is allowed. Thus, it is directed that in the event of the petitioner being arrested, he shall be released on bail by the arresting officer on furnishing personal bond in the sum of Rs.50,000/- with one surety in the like amount subject to the following further conditions:-

- (i) The petitioner shall continue cooperating with the investigation and join the same as and when called upon to do so;
- (ii) The petitioner shall not come in contact with or try to influence any of the witnesses connected to the case;
- (iii) Prior to his release, he shall give the telephone numbers of self and of at least one other responsible family member besides that of the surety to the

investigating officer;

(iv) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence;

(v) He shall not leave India without the prior permission of the court of cognizance or the trial court, as the case may be, and to ensure due compliance with this condition and shall deposit his passport, if he holds one, with the said court.

This order will inure only till the date of first appearance of the petitioner in the event of a charge-sheet being filed on conclusion of the investigation and process being issued against him by the court of cognizance.

The petition stands disposed of in above terms.

Dasti under the signature of Court Master.

AUGUST 29, 2018

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R.K.GAUBA, J.

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