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

+ CRL.M.C. 4238/2016

USHA KUMARI

..... Petitioner

Through: Mr. Jitender Kumar Jha, Advocate

versus

STATE & ANR

..... Respondents

Through: Mr. Ashish Dutta, APP for the State
With WSI Nisha, PS Mehrauli.
Mr. Mukesh Kumar Verma, Adv. for
R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **14.08.2018**

The second respondent is an accused in the criminal case arising out of FIR No.3205/2015 of Police Station Mehrauli for offences punishable under Sections 376/506/34 of the Indian Penal Code, 1860 (IPC), the petitioner herein being the complainant of the said case. On his application he was admitted to anticipatory bail by the court of Sessions by order dated 07.06.2016.

The petitioner feeling aggrieved had moved an application seeking cancellation of the said order under Section 439(2) of the Code of Criminal Procedure, 1973 (Cr.P.C.) which was dismissed by order dated 16.09.2016 of the said very court. The said order is under challenge by the petition at hand under Section 482 Cr.P.C. presented before this court.

During the course of arguments, it was submitted by the learned Additional Public Prosecutor for the State that investigation was later completed and charge sheet has been filed in the court of Metropolitan Magistrate on 14.08.2016. He also submitted that that Metropolitan Magistrate took cognizance and issued process and after compliance with the provisions contained in Section 207 Cr.P.C., the matter was committed to the court of Sessions where it is now pending at the stage of consideration of the charge, an application under Section 294 Cr.P.C. moved by the accused also being pending.

If that be so, the order of anticipatory bail has run its course and stands exhausted. The second respondent, concededly, has not moved an application for he to be admitted to regular bail before the court of cognizance or the trial court. The counsel for the second respondent/accused submits that he may be given time of four weeks to make such an application before the trial court where the matter is now pending and, in the meantime, he be given protection of the anticipatory bail order which has continued to operate because of the pendency of the petition at hand.

The counsel for the petitioner submitted that he may be given liberty to make submissions in opposition to the prayer for release of the second respondent on regular bail before the trial court.

Ordered accordingly. The second respondent is given liberty to move within four weeks hereof, appropriate application for he be admitted to regular bail before the trial court, serving a copy in advance on the learned APP and on the counsel for the petitioner, who will be entitled to be heard at the time of consideration of the said application by the trial court.

The second respondent will be entitled to the protection of release on bail in terms of anticipatory bail order, which was earlier granted in his favour till the decision is taken on such application as is proposed to be moved.

With these directions the petition stands disposed of.

R.K.GAUBA, J.

AUGUST 14, 2018
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