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

+ **BAIL APPLN. 2473/2016**

RAJENDER THAKUR

..... Petitioner

Through: Mr. Prashant Mendiratta, Adv.

versus

STATE

..... Respondent

Through: Mr. Ravi Nayak, APP for the State
with SI Romi Kanojia, PS CR Park.
Mr. Shakil Akhtar, Adv. for
complainant.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **02.08.2018**

In the ongoing investigation into FIR No. 280/2016 registered on 24.10.2016, allegations of offence under Section 376 IPC have been made against the petitioner by the prosecutrix.

The perusal of the FIR would show that she is a grown up woman who would move around independently. She claims to have come in contact with the petitioner through a common friend/acquaintance some five/six months prior to the incident, which allegedly occurred on 18.10.2016. As per her case, she had contacted the petitioner who deals in properties, to arrange a godown to be taken on rent in Greater Kailash Part-II area. It is alleged that at about 1.15 p.m. on 18.10.2016 she requested the petitioner to meet her and he came there after 20-25 minutes. It is alleged that the

petitioner took her around in his car to several places, first to offer her juice at some sweet shop, and then to a restaurant for lunch and then took her to a vacant plot of land in the Badarpur area, refusing to let her alight at some metro station as she was getting late to reach home. It is alleged that in the vacant plot of land, the prosecutrix was subjected to forcible sexual assault and attempted oral sex with threats extended, this putting her in fear.

In the FIR, there is no timeline indicated of the event in which sexual assault took place, or the time when the prosecutrix eventually was able to get relieved from the clutches of the petitioner or was able to reach home. The case was reported on 24.10.2016, six days after the occurrence, leading to registration of FIR at 9.10 p.m. There is no plausible explanation offered at this stage for the delay. The prosecutrix was examined medically on 24.10.2016 in All India Institute of Medical Sciences. The MLC would not reveal any physical injuries having been suffered, this in contrast to the allegations in the FIR wherein she was alleged that the petitioner had ravished her, physically assaulting her like an animal over a prolonged period.

The petitioner relies on audio recording made by him, midway the journey with the prosecutrix in his car, with the help of his mobile phone. The counsel representing him would explain that, on a hunch, because the prosecutrix had brought up she being in need of money, he had switched on the mobile phone into recording mode. The audio recording, thus made, has been shared with the investigating agency, its transcript being part of the record before this Court.

The learned Additional Public Prosecutor confirms, on instructions, that the voice matching has been done and it has been opined that the conversation includes the voices of prosecutrix and the petitioner. The petitioner seeks to point out that the prosecutrix was seemingly upto some design in that during the course of journey, while she was conversing with him, she had received a telephone call from her mother in Subhash Nagar area of Delhi when she had falsely told her mother that she was near Hyatt Regency Hotel near Bhikaji Cama Place this even though the car was carrying the two persons in the vicinity of Kalkaji/ Sarita Vihar. The petitioner had handed over his mobile phone instrument to the investigating officer, who, the learned Additional Public Prosecutor confirms, has verified the call detail records, confirming the location of mobile phone instrument being in the general area of Sarita Vihar/ Kalkaji.

In the above facts and circumstances, a case for anticipatory bail is made out.

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 bonds in the sum of Rs. 25,000/- 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; and

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.

R.K.GAUBA, J

AUGUST 02, 2018

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