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

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Judgment delivered on: 19.02.2019

+ BAIL APPLN. 248/2019

ANIL @ ANDLA

..... Petitioner

versus

STATE

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Kapil Lalwani, Mr. S.K. Pandey and Mr.
Devender Sakya, Advs.

For the Respondent: Mr. Hirein Sharma, Addl. PP for the State with
W/SI Madhavi Bist

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks regular bail in FIR No. 961/2014 under Section 323/363/376(D)/506 Indian Penal Code, 1860 and Section 6 of POCSO Act registered at Police Station Madhu Vihar, Delhi.

2. As per the case of the prosecution, subject FIR was registered on the complaint of a girl aged 16 years, who contended that while she was on the way from her tuition classes in the evening, she was called by one of her friends to a park near railway lines. When she went to the park another friend joined subsequently.

3. It is alleged that two aged persons came and they stated that they were railway employees and one of them took out a knife and snatched the mobile phone of all three. Thereafter two more persons came; one of whom was the petitioner, who is resident of her colony. Thereafter, it is alleged that these four persons started beating her two friends and repeatedly committed the offence of rape on her.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated. He submits that there are several contradictions in the statement given to the police as also the testimony recorded before the trial court. He submits that initially the complainant in the FIR had named the petitioner and subsequently in her cross-examination she had stated that she did not know the petitioner by name and name was disclosed by the Investigating Officer. Learned counsel further submits that there is no medical evidence to connect the petitioner with the offence.

5. Learned Addl. PP opposes the grant of bail and submits that prosecution evidence has already been concluded. He submits that the complainant had duly identified the petitioner as one of the persons who had committed the offence of rape on her. He further submits that since the prosecution evidence has concluded and petitioner has been identified, there is a possibility that petitioner may flee from justice.

6. Evidence of the prosecution in the subject case is already over and trial is at the stage of defence evidence. The complainant in her

testimony before the trial court has identified the petitioner and stated that he is one of the persons who had committed offence on her. As regards the alleged discrepancies and contradictions in the testimony of the complainant and the earlier version it is a matter of trial, and for the trial court to assess the impact, if any on the guilt of the petitioner.

7. Further the alleged admission that the name of the petitioner was disclosed to the complainant by the Investigating Officer and its impact on the case of the prosecution, if any, is a matter for consideration by the trial court at the time of consideration of case on merits.

8. Without commenting on the merits of the case, keeping in view of the facts and circumstances and the fact that the trial is at the very fag end, I am of the view that it is not a fit case for admitting the petitioner to bail.

9. Petition is accordingly dismissed.

10. It is clarified that the observations contained herein are only for the purposes of consideration of the application for grant of bail and shall not be taken into account by trial court at the stage of final adjudication.

11. Order *Dasti* under signatures of Court Master.

FEBRUARY 19, 2019/‘rs’

SANJEEV SACHDEVA, J