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

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Judgment delivered on: 15.03.2019

+ BAIL APPLN. 669/2019

DINESH @ BALA

..... Petitioner

versus

STATE

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Hari Prakash with Mr. Surender Kumar, Advocates.

For the Respondent : Mr. Hirein Sharma, APP for the State.
SI Rekha, PS S.B. Dairy.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

Crl.M.A.5675/2019 (exemption)

Exemption is allowed subject to all just exceptions.

BAIL APPLN. 669/2019

1. Petitioner seeks regular bail in FIR No.151/2018 under Sections 323/376D/328/506 IPC and Section 4 POCSO.
2. Allegation by the prosecutrix, who was aged 15 years on the date of the alleged offence, is that she was walking on the street when

the co-accused called her that her brother-in-law was beating her sister and asked her to make a call from the room of the petitioner. It is alleged that when she reached the room, he pushed her into the room where the petitioner was present. The co-accused is alleged to have locked the room from outside and subsequently, came with a cold drink which was given to the petitioner, who then made the prosecutrix drink the same. On drinking the cold drink, she became intoxicated and lost her senses and when she regained her senses there were no clothes on her body and an offence of rape had been committed on her by the petitioner. She was thereafter also threatened that if she disclosed the offence to any person, she would be eliminated.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated and there are several material contradictions in her testimony recorded before the Court and the statement given to the Police during investigation.

4. It is further alleged that the petitioner is 77% handicapped and cannot stand on his own and as such there is no possibility of him having committed the subject offence.

5. The statement of the prosecutrix has already been recorded before the Trial Court and she has categorically named the petitioner and described the manner in which the offence had taken place.

6. Keeping in view the fact that most of the witnesses have already been examined and have supported the case of the prosecution, I am not inclined to admit the petitioner to bail at this stage.

7. Further, in view of the fact that the petitioner has been in custody for about a year and also keeping in view the order dated 01.11.2018, whereby, the Trial Court was directed to conclude recording of the prosecution witnesses within a period of four months, the Trial Court is directed to further expedite the recording of the prosecution witnesses and conclude the same preferably now within a period of 3 months from the next date of hearing fixed before the Trial Court.

8. Petition is, accordingly, dismissed, however with the aforesaid directions.

9. Order *Dasti* under signatures of the Court Master.

MARCH 15, 2019
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SANJEEV SACHDEVA, J