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

% Judgment delivered on: 21.08.2019
+ BAIL APPLN. 853/2019

RAJ KUMAR KATHURIA Petitioner

versus

STATE (GNCT OF DELHI) Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Tribhuwen Kumar Kaushik, Adv.

For the Respondent : Mr. Hirein Sharma, APP for the State with SI Juli
Mr. Avinash, Adv. for complainant

**CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA**

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks regular bail in FIR No.2/2019 under Sections 354/354A/354B/376/34 IPC, Police Station Gandhi Nagar.

2. Allegations against the petitioner by the prosecutrix are that she is an owner of a particular shop and there is a dispute with the petitioner. She got information that some person had come to break open the lock of her shop. When she reached the spot, she found the petitioner there along with his brother with tools for breaking the lock and when she objected, it is alleged that they assaulted her and even

committed the offence under Section 376 IPC by inserting his finger.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated. He submits that there is a dispute with regard to possession of a shop and the possession is of the petitioner and not of the complainant. He submits that when the petitioner was at his shop, the respondent along with her husband and another person came to the spot and started assaulting him, on which he made a PCR call at 10:26 pm. He submits that subsequently, PCR call was made by the prosecutrix at 10:35 pm alleging that someone was attempting to break open the lock of her shop. Later on she changed her version and another call was made to PCR alleging that someone had misbehaved with her.

4. Petitioner was taken in custody on 26.02.2019.

5. The Investigating Officer has produced the CCTV footage of the incident. The prosecutrix in her complaint has stated that she had come to the spot alone and the petitioner had assaulted her, however, *prima facie* on viewing the CCTV footage, it appears that she was not alone and was accompanied by other individuals and there was an altercation between the persons present there and the prosecutrix was away from the petitioner for most of the time.

6. Learned APP for the State, under instructions from the Investigating Officer, submits that the prosecutrix in her statement has

not disclosed that she was accompanied by other individuals.

7. Petitioner was admitted to interim bail by order dated 03.04.2019 on furnishing bail bond in the sum of Rs. 25,000/- with one surety of the same amount.

8. On perusal of the record, I am satisfied that the petitioner is entitled for grant of regular bail.

9. Accordingly, the interim bail granted to the petitioner by order dated 03.04.2019 is converted into regular bail on the same sureties and terms and conditions. The Bail bonds furnished by the petitioner shall enure for the present order also. Petitioner shall not do anything which may prejudice either the trial or the prosecution witnesses.

10. The petition is disposed of in the above terms.

11. Order *dasti* under signatures of the Court Master.

AUGUST 21, 2019
'rs'

SANJEEV SACHDEVA, J