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

+ **BAIL APPLN. 1465/2019**

Birju Malik

..... Petitioner

Through

Mr.Ruchin Midha,
Mr. Baljeet Singh Tokas
& Mr, Iggu Chittiappa, Advs.

versus

THE STATE GOVT OF NCT OF DELHI Respondent

Through

Ms. Neelam Sharma,
APP for State along with SI
Naveen Kumar, PS Vasant
Kunj North.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

ORDER

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23.09.2019

1. Vide this order I shall dispose of the bail application filed by the petitioner in FIR No. 532/2018 u/s. 376-D IPC P.S. Vasant Kunj North.

2. Ld. Counsel for the petitioner has prayed for bail on the ground that petitioner is innocent and has been falsely implicated. He has been in JC since 13.10.2018. His role is only that he was standing outside the store when the alleged rape was committed by co-accused Vinod Kumar with the complainant. It is submitted that co-accused had never called the petitioner on the day when the incident took

place. In fact the mobile phone of the petitioner was damaged and petitioner was not using his mobile phone for the past three days. The FIR has also been registered after a period of 08 days. The incident took place on 05.10.2018 and the FIR was registered on 13.10.2018. No specific role has been attributed to the petitioner.

3. Ld. APP for the state has opposed the bail application on the ground that allegations against the petitioner are very grave in nature. There are specific allegations against the petitioner. Statement of victim is being recorded in Court and FSL report is still awaited. He has, therefore prayed for dismissal of the bail application.

4. I have considered the rival submissions. The allegations against the petitioner are serious in nature. It is alleged that on 05.10.2018, the petitioner had come to the complainant and told her that someone was calling her and on the insistence of petitioner, the complainant had gone inside the store where co-accused Vinod was sitting alone. Seeing him, the victim had tried to come back. The petitioner had, however, locked the door from outside. Thereafter, co-accused Vinod had removed her clothes, pulled her hair, made her lie on the carton boxes and forced her for oral sex. He penetrated his penis into her body. After committing the crime, co-accused Vinod called the petitioner who came and opened the door. Ld. Counsel for the petitioner has contended that petitioner was not using his mobile phone on the day of incident as his mobile phone was not working on the said day. I have given my thoughts to the matter. Evidence is still being recorded by the Ld. Trial Court. The contention of the Ld. counsel will be considered by the Ld. Trial Court at the appropriate

stage after recording the evidence. The cross-examination of the complainant is still going on and FSL report called by the Ld. ASJ is still awaited. Keeping in view the serious nature of the offence and specific allegations against the petitioner, no grounds for bail are made out. The bail application is, therefore, dismissed.

BRIJESH SETHI, J

SEPTEMBER 23, 2019
AP