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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1622/2019

CHANDER KANT

..... Petitioner

Through: Mr. Arun Khatri, Mr. Amit Kumar,
Mr. Nadeem and Mr. Sushant
Chauhan, Advs.

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Mr. K.K. Ghei, APP for State with
W/SI Sangeeta, PS – Nihal Vihar and
HC Ashwani Kumar, PS – Prem
Nagar
Mr. Rahul Chandhok and Mr. Nitesh
Shokeen, Advs.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

27.11.2019

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1. During the hearing on 24.10.2019, learned APP for State submitted that the result of the MLC has been obtained from Global Bhatia Hospital, wherein the doctor opined the injuries as grievous, which is contrary to Section 320 IPC. Accordingly, Dr. P. Bhatia of the aforesaid hospital was directed to appear in person regarding the said MLC to explain how the injuries mentioned in the MLC are covered under the purview of Section 320 of IPC.
2. Consequently, Dr. P. Bhatia is present in Court and submits that he never mentioned the injuries to be grievous and has shown the MLC issued by him.

3. The query put to the learned APP on what basis, he made the statement and same was recorded by this Court. Learned APP has clarified that inadvertently, he made submissions in this regard.
4. Accordingly, the presence of Dr. Bhatia is dispensed with.
5. In the order sheet dated 24.10.2019, it is recorded by this Court that on 12.10.2019, a written complaint was received at Police Station – Prem Nagar regarding the incident and enquiry was taken up. It was revealed that on 01.08.19, Tarsem Lal met with an accident of E-Rickshaw and motorcyclist at Main Mubarakpur Road, Near 70 foota Road and the injured Sh. Tarsem Lai was taken to Amrawati Poly Clinic, Prem Nagar, Delhi for first-aid, wherein doctor gave him first-aid and advised him to go to Government Hospital for further treatment as no MLC facility was available at Amrawati Poly Clinic.
6. In the order sheet dated 05.07.2019, it is recorded by this Court that the ‘petitioner is the brother-in-law of the complainant. The allegations in the FIR, apart from the matrimonial discord between the husband and wife, qua the petitioner are that on 25.11.2018 when she was alone in the house, he was entered her room and misbehaved with her and committed the offence of rape on her. Accordingly, the complaint was culminated into the FIR on complaint lodged in March, 2019, whereas the incident is of 25th November, 2018.
7. The order sheet further recorded the submissions made by the learned counsel for the petitioner that the allegation qua the petitioner emanated out of a matrimonial discord and there is clearly an unexplained delay in registering the FIR. As per the averments in the

FIR, the alleged incident is of November, 2018 and the complainant continued to stay in the same household till December, 2018, where after, she shifted to another household. In fact, the complainant shifted out of the house even before the date of the incident.

8. On the said date, it was further submitted by the learned counsel for the petitioner that an application under Section 91 Cr.P.C. was filed to call detail records of the petitioner as well as the complainant which were obtained by the prosecution and CDR show that on the date of the incident, the location of the complainant is stated to be at her parental home in Rohini whereas location of the petitioner was in Budh Vihar at his own residence.
9. Accordingly, without commenting on the merits of the prosecution case and in view of the facts and circumstances of the present case, I hereby direct the SHO/ Arresting Officer/IO concerned to release the applicant/ petitioner in the event of arrest on furnishing a personal bond in the sum of ₹25,000/- with one surety in the like amount subject to the his satisfaction.
10. Application stands disposed of.
11. Order *dasti* under signatures of the Court Master.

SURESH KUMAR KAIT, J

NOVEMBER 27, 2019/PB