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

Judgment delivered on 21.11.2019

+ **BAIL APPLN. 2560/2019**

BABU ARORA

..... Petitioner

Through: Mr. Sumit Kishore with Mr.
Sandeep Kumar Yadav,
Advocates.

versus

THE STATE

..... Respondent

Through Mr. G.M.Farooqui,
APP for State.
Insp. Gursevak Singh:
PS Tilak Nagar

CORAM:
HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J.(Oral)

1. Vide this order, I shall dispose of a bail application u/s. 439 CrPC filed by the petitioner Babu Arora in FIR No. 190/2019, u/s. 376(2n), 370/376D/376(3)/109/323/392/506/120B IPC and Section 6/17/21 of POCSO Act and Section 3/4/5/6/7 of ITP Act, P.S. Tilak Nagar, Delhi.

2. Ld. Counsel for the petitioner has prayed for bail on the ground that petitioner is innocent and falsely implicated. It is submitted that petitioner is residing with his family at his native place i.e. Raja Bhawan behind Shastri Nurshing Home, Sindhi Colony, Gangapur City, District Sawai Madhopur, Rajasthan. Petitioner is 40 years old suffering from Spine Disk Problem and used to come to Delhi as well as Gurugram for his treatment in Delhi. It is further submitted that petitioner came into the contact with one of co-accused Madhubala @ Madhu as the petitioner was searching a room for his stay and the co-accused Madhubala @ Madhu stated to the petitioner that she is in the business of letting out of the property on the commission basis and she will arrange an accommodation for him and that is why total three calls of the petitioner are being shown from the mobile no. 8448816520 belonging to co-accused Madhubala @ Madhu on 11.04.2019 and 12.04.2019.

3. It is submitted that prosecution has no substantial evidence against the applicant except the version of the prosecutrix. Petitioner is in judicial custody since 20.04.2019 and no fruitful purpose will be served by keeping the petitioner in judicial custody. It is further

submitted that petitioner is not named in the Tehrir and FIR. Even the name of the petitioner is not in the statement recorded under Section 164 Cr.P.C. According to the petitioner, the offence is alleged to have been committed by him at Krishnapuri, Delhi but at that time, he was not present there. It is lastly submitted that investigation is complete and charge sheet has been filed and therefore, he be, released on bail, in the interest of justice.

4. Ld. APP for the state has opposed the bail application on the ground that allegations against the petitioner are serious in nature. Prosecutrix has herself given the name of the petitioner during the course of investigation. Other accused persons namely Madhu Ahuja, Jyoti @ Neetu Ahuja, Payal, Rakesh Kumar and Tushar are absconding and still evading the process of law. He has, therefore prayed for dismissal of the bail application.

5. I have considered the rival submissions. As per prosecution version, the present case was registered on the complaint of victim in which she alleged that she was sexually assaulted by different men at WZ-27, Gali No. 10, Krishna Park, Delhi where Madhu Ahuja, Payal (daughter of Madhu Ahuja) and Jyoti @ Neetu Ahuja (daughter of

Madhu Ahuja) forced the prosecutrix in sexual act whereas Sandeep Singh @ Sahil used to bring clients to their house. After one and half months Jyoti @ Neetu Ahuja took the complainant to her Uttam Nagar house at Q-31, Vikas Vihar, Manas Kunj Road where Sandeep Singh @ Sahil and Jyoti were residing as husband and wife. The complainant was sexually assaulted there as well by different persons. The accused Sandeep Singh @ Sahil was arrested on 15.04.2019. During further investigation, the complainant had given three mobile numbers of those who had also sexually assaulted the prosecutrix which are 9650139115, 8947038999 and 9971417815. On obtaining and analyzing the CDR of given mobile numbers, it was found that **mobile number 8947038999** belonged to **accused Babu Arora** and mobile number 9971417815 belonged to accused Puran Mal. The complainant identified the photograph of accused Babu Arora from CAF (Customer Application Form) of number 8947038999. The accused Puran Mal S/o Sh. Daryao Singh r/o WZ-904, Naraina Village, Delhi and Babu Arora S/o Sh. Moti Lal R/o Sindhi colony, Gangapur City, District Sawai Madhopur, Rajasthan were arrested on 20.04.2019 and 08.05.2019 respectively. The chargesheet against

accused Sandeep Singh, Puran Mal and Babu Arora was filed in the Court on 13.06.2019. Proceedings under Section 82/83 Cr.P.C. have been initiated against Madhu Ahuja, Jyoti @ Neetu Ahuja, Payal, Rakesh Kumar and Tushar. **The prosecutrix has herself provided the mobile number of accused Babu Arora. The complainant in her statement under Section 161 Cr.P.C. stated that the accused Babu Arora sexually assaulted her once at Krishnapuri.** The mobile location of accused Babu Arora also corroborated the fact of him being present at Krishnapuri on 09.03.2019 in the afternoon. As discussed earlier, the complainant has also identified the photograph of accused Babu Arora from CAF of mobile number 8947038999.

6. It is a settled law that while granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, the circumstances which are peculiar to the accused, his role and involvement in the offence, his involvement in other cases and reasonable apprehension of the witnesses being tampered with.

7. In the present case, the prosecutrix has identified the photograph of petitioner Babu Arora from CAF of number 8947038999 and has also provided the mobile number of petitioner. During her statement recorded under Section 161 Cr.P.C. prosecutrix has stated that petitioner Babu Arora had sexually assaulted her at Krishna Puri. Even the mobile location of petitioner Babu Arora has corroborated the fact that he was present at Krishna Puri on 09.03.2019 in the afternoon. Perusal of the statement of victim, who is 16 years old only clearly reveals that she has been sexually assaulted by the petitioner. In view of the above discussion and keeping in view the gravity of offence, no grounds for bail are made out. The bail application is, therefore, dismissed and stands disposed of accordingly.

BRIJESH SETHI, J

NOVEMBER 21, 2019

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