

\$~17

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

+ **BAIL APPLN. 3137/2019**

ANURADHA KASHYAP

..... Petitioner

Through: Mr. Abhishek Sharma and
Mr.Mrigank Shankar, Advocates.

versus

STATE

..... Respondent

Through: Mr. M.S. Oberoi, APP for the State
with SI Deepak PS Narela.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

%

17.01.2020

This is a petition filed under Section 438 Cr.P.C. read with Section 482 Cr.P.C. for grant of pre-arrest bail against the order dated 12.12.2019 passed by learned Additional Sessions Judge in case FIR No. 233/2019 under Sections 376/506/354 IPC and Section 12 POCSO Act registered at Police Station Laxmi Nagar.

In brief, the facts of the case are that complainant who is resident of F-38, Laxmi Nagar, Gali No. 7, East Delhi, used to run a shop from where husband of the petitioner used to purchase goods. The husband of the petitioner also took jewellery and cash from the complainant and she also loaned him a sum of Rs.25,000/-. It is alleged that on 04.08.2019 when her outstanding against the husband of the petitioner came to Rs.5,00,000/- then she started demanding her

money, but the husband of the complainant stopped picking her phone. So she went to the house of the complainant where he made illegal physical relations with her and also made her video and took her videographs and thereafter started blackmailing her and also threatened her for life. Thereafter, on 07.08.2019, statement of the victim was recorded under Section 164 Cr.P.C. wherein apart from what has been stated by her in the FIR she stated that one day in the afternoon accused Deepak Sharma, who is the husband of the petitioner, came to his shop and asked her that if she wanted her money back she should come to his house. So the complainant went to the house of the accused Deepak Sharma where according to her his wife, the present petitioner, was also present. She was given juice to drink and after taking the juice she became unconscious and thereafter she was raped by Deepak Sharma. She has further stated that despite being unconscious she was feeling that something wrong is being committed with her. She has further stated in her statement under Section 164 Cr.P.C. that on re-gaining consciousness she asked from them as to what had happened and both of them stated that she felt giddiness and after that the victim/complainant came back to her house. According to her statement, on the next day Deepak Sharma came to her shop and showed her photos and videos and thereafter started blackmailing her. It is submitted by learned counsel for the petitioner that she was falsely implicated and no allegations have been made against her in the FIR and even there are no allegations against the petitioner in the statement of the complainant recorded under Section 164 Cr.P.C. and all the allegations are baseless and no date,

time and day has been mentioned. It is also submitted that all the allegations are against Deepak Sharma with regard to the wrong act being committed against the complainant and her minor daughter.

On the other hand, learned APP for the State has submitted that the allegations against the petitioner are grave and serious in nature as she videographed the rape which was committed by the husband. It is submitted that process under Section 82 Cr.P.C. has been issued against her. Status report has been filed on behalf of the State. Learned APP for the State argues that efforts were made to arrest the petitioner but she could not be arrested.

In the instant case there are no allegations against the petitioner in the FIR. When the complainant made her statement under Section 164 Cr.P.C. she has made improvements in the first statement which was made by her on 04.09.2019 and in this statement she has talked about the presence of the petitioner. During the course of arguments learned APP stated that the petitioner has videographed and took photographs of the complaint, but from the perusal of the FIR and the statement made under Section 164 Cr.P.C. it does not appear that it was the petitioner who had videographed the crime allegedly committed by Deepak Sharma. No recovery is to be effected from the petitioner, however, it is submitted by learned APP for the State that petitioner may be directed to hand over her mobile phone to the concerned IO.

Learned counsel for the petitioner submits that petitioner will hand over her mobile phone to the IO within two days.

In view of the aforesaid facts and circumstances, petitioner is

admitted to bail on her furnishing a personal bond in the sum of Rs.50,000/- with one surety in the like amount, subject to the satisfaction of the learned trial court. The petitioner shall join the investigation as and when required by the IO.

The petition is disposed of in the aforesaid terms.

A copy of this order be transmitted to the trial court.

Dasti.

RAJNISH BHATNAGAR, J

JANUARY 17, 2020

AK