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

+ **BAIL APPLN. 3162/2019**

VICKY GUPTA

..... Petitioner

Through: Mr.Mohit Aggarwal, Advocate.

Versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr.Kewal Singh Ahuja, APP for State.
Ms.Inderjeet Sidhu, Advocate
(DHCLSC) for prosecutrix.

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
13.08.2020

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(hearing through Video Conferencing)

Learned counsel deputed by the Delhi High Court Legal Services Committee for the prosecutrix has submitted her brief submissions pursuant to interaction permitted with the prosecutrix and has submitted therein that the prosecutrix is presently in custody in relation to FIR No.303/2020, PS Krishna Nagar, which was also submitted on behalf of the State on 07.08.2020 vide the status report dated 06.08.2020 under the signatures of the SHO, PS Lahori Gate.

On behalf of the applicant, it has been submitted that the applicant has been falsely implicated in the instant case and that is brought out even by the Registration of the FIR No.303/2020, PS Krishna Nagar under Sections 376/420/389/182/211/120- B/34 of the Indian Penal Code, 1860

whereby, even the Bail Appln.No.691/2020 of the prosecutrix was declined on 25.07.2020.

It has been submitted on behalf of the applicant that it is the modus operandi of the prosecutrix to indulge in making false allegations against the persons in relation to the alleged sexual assaults on her and that this is mentioned even in her disclosure statement which has been recorded in FIR No.303/2020, PS Krishna Nagar wherein she has even made a statement to the effect that she has got a complaint lodged against Vicky Gupta at PS Chandni Mahal. It is further submitted on behalf of the applicant that Vicky Gupta is Vicky Gupta i.e. the applicant of the instant case and that though, the present FIR in which the application seeking grant of bail has been filed relates to PS Lahori Gate, in as much as, the prosecutrix is a resident of Bihar and PS Chandni Mahal is only at a distance of about 2 kms from PS Lahori Gate, the discrepancies in the disclosure statement of the prosecutrix in FIR No.303/2020, PS Krishna Nagar in relation to the name of the police station are immaterial.

On behalf of the State, it has already been submitted previously that the FSL result in the matter that was submitted vide the status report dated 06.08.2020 indicated that there was no tampering found in the CCTV footage and as per the FSL result and the investigation conducted, showed the entry of the prosecutrix to the Balaji Guest House on 11.10.2019.

It has thus been submitted on behalf of the applicant that there was nothing to indicate that the applicant had entered the Balaji Guest House and that there was nothing to support the prosecution version. Reliance is also sought to be placed on behalf of the applicant on the testimony of the prosecutrix recorded on 16.03.2020 as her part examination in chief before the learned Trial Court, wherein, she has *inter alia* stated that she

had been taken to the hotel by the applicant but nothing happened in the said hotel.

On behalf of the State, it has been submitted that the examination in chief and the cross-examination is yet to be completed which is also so stated on behalf of the prosecutrix.

Learned counsel for the prosecutrix also seeks to place reliance on the conversation between her and the prosecutrix submitting to the effect that the prosecutrix has reiterated her statement made in the FIR and her statement under Section 164 of the Cr.P.C., 1973 as per instructions given to the said learned counsel.

In the circumstances, it is submitted on behalf of the prosecutrix and on behalf of the State that the testimony of the prosecutrix needs necessarily to be completed. The said submission made on behalf of the prosecutrix and the State is apparently correct as it appears necessary that the prosecutrix is examined completely before consideration of any bail application filed by the applicant.

In the present circumstances, learned counsel for the applicant presently seeks to withdraw the present application, i.e., BAIL APPLN. 3162/2019, seeking liberty to file it afresh after completion of the testimony of the prosecutrix.

The application is thus dismissed as withdrawn with liberty granted, as prayed.

Nothing stated hereinabove shall however amount to any expression on the merits or demerits of any bail application that is so filed by the applicant.

ANU MALHOTRA, J

AUGUST 13, 2020
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