

(VIA VIDEO-CONFERENCING)

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on : 02.08.2021

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Pronounced on : 24.08.2021

+ BAIL APPLN. 2493/2019

TEJ RAM SHARMA

.....Petitioner

Through: Mr. Chander M. Maini and Mr.
Mayank Maini, Advs.

Versus

STATE

..... Respondent

Through: Mr. Mukesh Kumar, APP for
the State with IO.
Ms. Richa Dhawan, Adv.
(DHCLSC) for prosecutrix.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present bail application has been filed by the petitioner under Section 439 Cr.P.C. seeking bail in case FIR No. 438/2018 under Sections 376D/354D/354/506 IPC and Section 6 of POCSO Act, registered at Police Station Ranhola.

2. Briefly stated, the facts of the case are that on 18.7.2018 a case vide aforesaid FIR was registered at P.S.Ranhola against Tejram Bhardwaj @ Pandit and Yogesh on the complaint of the prosecutrix Ms. P. It is alleged in the complaint that complainant was the neighbour of the accused Tejram Bhardwaj and her family got the place on rent with the help of accused in 2016, due to which, prosecutrix became familiar with accused Tejram and

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his family members, and she used to go at the residence of accused Tejram Bhardwaj. It is further alleged that accused to hold the hand of prosecutrix and use vulgar words whenever he found her alone. It is further alleged that one day at noon in the month of May-June 2017 accused Tejram Bhardwaj called prosecutrix at his residence on the pretext that his wife is calling her for some work, and after that, prosecutrix alone reached at the residence of accused Tejram. It is further alleged that when she entered in the house of accused he closed the door and prosecutrix found there one more person namely Yogesh (brother-in-law of Tejram). It is further alleged that accused Tejram took the prosecutrix forcefully in a room after pressing her mouth with his hand and raped her, and accused Yogesh made their video.

3. It is further alleged that accused Tejram threatened the prosecutrix that if she would disclose this incident to anyone, he would make the video viral. It is further alleged that accused on the pretext to circulate the video, blackmailed the prosecutrix and raped her many times. It is further alleged that prosecutrix changed her residence due to accused Tejram but he did not leave her and continued to blackmail her and raped her. It is further alleged that prosecutrix got pregnant and she informed the same to accused Tejram, who gave some medicines to her and threatened her to take them. It is further alleged that prosecutrix informed her mother about her pregnancy and act of accused Tejram, and when her parents questioned to accused Tejram, he threatened her parents and used abusive language.

4. I have heard learned counsel for the petitioner and learned APP for the State and perused the status report filed on behalf of the State.

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5. It is submitted by the counsel for the petitioner that petitioner is an innocent young man 30 years of age, and he is in judicial custody since 19.7.2019. It is further submitted by learned counsel for the petitioner that petitioner had previously moved before this Court for bail which was dismissed as withdrawn vide order dated 14.12.2018, and petitioner was granted liberty to file a fresh bail application once statement of the victim is recorded. It is further submitted by the counsel for the petitioner that now the testimony of the victim has been recorded, and hence this application for grant of bail. It is further submitted by the counsel for the petitioner that in the testimony of the victim recorded before the trial court, there are major improvements, which have been made by the victim, with regard to the complaint on the basis of which FIR was registered and her statement recorded under Section 164 Cr.P.C

6. It is further submitted by the counsel for the petitioner that petitioner has a right to speedy trial which has been enshrined under Article 21 of the Constitution of India. In support of this contention, he has relied upon Criminal Appeal No. 227/2018 titled as ***Dataram Singh Vs. State of U.P. and Anr; Anil Kumar Yadav Vs. State (NCT of Delhi) (2018) 12 SCC 129***, and reliance has also been placed upon by the counsel for the petitioner in the judgment in the case of ***Ganesh Raj Vs. State of Rajasthan and Ors 2005 Crl. LJ 2086***, to contend that if there is delay in the trial then the accused has a right to move second bail application on the ground of delayed trial.

7. It is further submitted by the counsel for the petitioner that co-accused was admitted to bail on 4.10.2018. It is further submitted by the counsel for

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the petitioner that the allegations are highly belated and FIR has been registered after a considerable period of delay of about one year.

8. Learned APP has argued on the lines of the status report and submitted that the victim has supported her case in the examination-in-chief, and has stood in the test of cross-examination. It is further submitted that there is nothing in the testimony of the victim to discredit her testimony. It is further submitted by learned APP that the allegations against the petitioner are grave and serious in nature, and the victim was minor, aged around 17 years at the time of the incident.

9. In the instant case, the testimony of the victim has been recorded and concluded on 15.1.2021. Counsel for the petitioner has heavily relied upon the testimony of the victim who deposed as PW-1 before the trial court in support of grant of bail to the petitioner. During the course of the arguments, it is submitted by the counsel for the petitioner that victim has made large scale of improvements over her statements Ex.PW1/A and Ex.PW1/B. I have gone through the testimony of PW-1. No doubt, this is not the stage to discuss merits or demerits of the testimony of the victim or to deeply analyse her testimony, but one cannot loose sight of the fact that there are major improvements made by the victim in her statements Ex.PW1/A and Ex.PW1/B, and during her cross-examination, she was confronted by her these two statements wherein the facts mentioned in the examination-in-chief by the victim were not mentioned by her in statements Ex.PW1/A and Ex.PW1/B, which are crucial facts.

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10. Now, as far as to what would be the effect of improvement in the testimony of the victim, that would be seen during the course of trial when other evidence comes on record. However, in my opinion, the petitioner, in the instant case, is liable to grant of bail. Therefore, in these circumstances, since the petitioner is in judicial custody since 19.7.2019, co accused has already been granted bail, victim has also been examined, and there are no chances of tampering with the evidence as the main witness has already been examined, petitioner is admitted to bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the trial court concerned.

11. The bail application stands disposed of. All pending applications stand disposed of accordingly.

12. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case.

RAJNISH BHATNAGAR, J

August 24, 2021

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