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

+ **BAIL APPLN. 88/2020**

RAVI

..... Petitioner

Through **Mr. Jitender Singh, Adv.**

versus

STATE

..... Respondent

Through **Mr. Hirein Sharma, APP for State
SI Heema Chaudhary, PS Sarai
Rohilla**

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% **03.03.2020**

1. Present petition is filed under Section 439 Cr.P.C. for grant of bail in FIR No. 268/2018 registered at P.S. Sarai Rohilla for offences punishable under Section 376/328/506/509/34 IPC and Section 6/12/17 Of POCSO Act.
2. As per the allegations in FIR, prosecutrix/complainant stated in her statement that she was about 16 years and had studied upto 12th standard. She further stated that there is a factory of hosiery clothes near her house where a boy, namely, Ravi (petitioner herein) used to work, with whom she became friend in December 2017. In January 2018, on the pretext of his friend's birthday, petitioner took her to a party at Tri Nagar where she consumed cold drink and thereafter, she became unconscious. On regaining consciousness, her body was cloth less and she was having pain in her

stomach and private parts. Petitioner showed her nude photos in his mobile phone. She asked petitioner to delete those photos to which he answered that he would delete the same after some time. Thereafter, she stopped talking to the petitioner. After some days, petitioner called her and told that he would marry her, so they started talking again to each other. Later, petitioner's friend, namely, Gaurav told her that petitioner was married, following which she stopped talking to petitioner once again. Thereafter, petitioner started threatening her that, if she did not establish physical relations with him, he would show her nude photos to her family. Under this threat, petitioner took her to his friend's house at Shastri Nagar where he forcefully established physical relations. On 07.06.2018, she was going to market with her sister and petitioner stopped and slapped her and her sister. Her sister told about this incident to all her family members. Accordingly, she made complaint and sought action against the petitioner.

3. Learned APP has opposed the present petition by submitting that prosecutrix was 16 years of age and even if physical relations were established with her consent, the same is immaterial. Further, the petitioner had recorded a video of prosecutrix having physical relations with him and used to threat and exploit the prosecutrix.

4. Case of petitioner is that because of failure on the part of the petitioner to fulfil unlawful desire of the prosecutrix of getting married despite prosecutrix knowing well that he was already married, which led the prosecutrix to implicate the petitioner in the present case.

5. Allegations raised in the FIR establish material contradictions and discrepancies and have no clear inter-connection to one another. Prosecutrix has concocted the whole scenario just to save herself and on the basis of her

allegations, the petitioner is in judicial custody.

6. Further case of the petitioner is that as per her statement under Section 161 Cr.P.C. in January, 2018 the petitioner took the prosecutrix to a party at Tri Nagar on the pretext of petitioner's friend's birthday. Whereas in her statement recorded as PW-3 before the Trial court, she stated that there were four persons including two girls at the party in the flat at Tri Nagar but again further in contradiction to that prosecutrix stated that there was no one else at the flat except the petitioner and herself.

7. The statement of prosecutrix that after consuming cold drink she became unconscious is completely false and concocted. The same can't be believed as not even one witness/evidence has been examined and deposed anything with respect to the alleged incident at various stages of legal proceedings against the petitioner.

8. Counsel appearing on behalf of petitioner has opposed the prosecution version and submits that even if there were other persons, it is not clear as to who those persons are. Moreover, if the flat had only one room as stated by the prosecutrix, then how and where did the other persons suddenly vanish.

9. The prosecutrix has failed to even specify the justified /reasonable time and date of alleged offences at both places i.e. Tri Nagar and Shastri Nagar as the prosecutrix stated in her statements/testimony as PW-3 that they reached the house of the co- accused Amit around 4 pm. But contrary to that she stated in her statement u/s 161Cr.P.C. that incident at Shastri Nagar took place around 3 pm and she doesn't know the particular date and time of both the incidents. Moreover, complainant is not even clear as to how she reached Shastri Nagar, whereas, she stated in her statement as PW -3 that she got scared and went to meet the petitioner at the house of the co-

accused Amit at Shastri Nagar. Thereafter, in her cross examination stated that petitioner met her in *gali* and further they went together to the house of the co- accused namely Amit. The statements of prosecutrix are contradictory and cannot be relied upon.

10. Around 10 prosecution witnesses have been examined out of 17 prosecution witnesses. Only formal witnesses are left to be examined.

11. However, without commenting upon the prosecution case, petitioner is in judicial custody since 10.07.2018, I am of the view that present case is fit for bail. Accordingly, petitioner shall be released on bail on his furnishing personal bond in the sum of ₹15,000/- with one surety of the like amount to satisfaction of Trial Court.

12. The present bail application is allowed and disposed of.

13. Copy of this order be transmitted to the Jail Superintendent and the Trial Court concerned for compliance.

14. Order *dasti* under the signatures of Court Master.

SURESH KUMAR KAIT, J

MARCH 03, 2020

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