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

+ **BAIL APPLN. 421/2020**

SUNIL KUMAR @ LALLA Petitioner
Through **Mr.Shafiq Khan, Adv. with**
Mr.Ramesh Kumar, Adv.

versus

STATE Respondent
Through **Mr. Panna Lal Sharma, APP for State.**
W/SI Namrata PS Sagarpur.
W/SI Indu FRRO.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% **17.02.2020**

The present petition is filed under section 439 Cr.P.C. for grant of bail to petitioner/accused in pursuance to FIR No.294/2019 registered at Police Station Sagarpur for offences punishable under sections 376D/323/324/506/34 IPC and section 6 of the POCSO Act.

Present petition is filed on the ground that petitioner has been falsely implicated in the present case in collusion with police officials and he is in judicial custody since 05.07.2019 (210 days) and there is nothing on record to indicate his participation in the offence.

Case of petitioner is that there are five names mentioned in the FIR namely Deepak @ Bhuri, Amit, Honney, Anil and Vishal @ Neelu as accused persons and name of the petitioner is not mentioned even in her statement recorded under section 161 Cr.P.C. However, in the statement recorded under section 164 Cr.P.C., she has named Sunil, petitioner herein,

in place of Anil, whose name was mentioned in the FIR. Moreover, there is no clarification in the chargesheet about the above-named accused Anil, whether he and Sunil i.e. petitioner herein, are the same person.

SI Indu, IO of the case, who is personally present, submits that Anil and Sunil are the same person, however, on asking whether she has clarified this fact in chargesheet, she replied in negative. Thus, there is no clarification in the chargesheet as to how petitioner has been implicated and Anil has been dropped in the present case.

In view of above, as petitioner is in judicial custody since 05.07.2019 without any role assigned to him in the FIR, petitioner deserves bail.

Therefore, petitioner shall be released on bail on his furnishing personal bond in the sum of ₹10,000/- with one surety of the like amount to the satisfaction of the Trial Court.

Before parting with the order, in view of above facts, I hereby direct the Trial Court to consider the aforesaid fact at the time of order on charge.

The present petition is allowed and disposed of.

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

Copy of this order be also transmitted to the DCP (South-West) who shall look into the matter and if required, action be taken against IO as per law on her above lapses.

Order *dasti* under the signatures of Court Master.

SURESH KUMAR KAIT, J

FEBRUARY 17, 2020/ab