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

+ **BAIL APPL 528/2020**

ZAKIR

..... Petitioner

Through: Mr. Joginder Tuli, Advocate

versus

STATE

..... Respondent

Through: Dr. M.P. Singh, APP for State with
SI Karmveer Singh and ACP
Surender Kumar Gulia, AHTU/Crime
Branch

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

ORDER

% **05.08.2020**

CRL. M.A. 9072/2020 (early hearing)

1. The present application has been filed seeking early hearing of BAIL APPL 528/2020.
2. The application is allowed and with the consent of the parties, BAIL APPL 528/2020 is being taken up for hearing today itself.
3. The application is disposed of.

BAIL APPL 528/2020

1. The present bail application has been filed seeking regular bail in FIR No.10/2013 under Sections 376/342/109/114/366/367/368/341/120B IPC & 5 and 9 ITP Act registered at Police Station Gazipur, Delhi.

2. Learned counsel for the petitioner submits that the FIR in the present case was registered on 09.01.2013 and has invited the attention of the court to the provision of Section 376 IPC as it stood prior to the amendment came into effect from 03.02.2013. He submits that as per the unamended Section, the sentence provided under Section 376 IPC was for a term which shall not be less than 7 years but which may be for life or for a term which may extend to 10 years. He submits that the petitioner has already spent about more than 7 years and 6 months in custody. He also submits that the prosecutrix alongwith all the witnesses have already been examined and the case is pending for recording the statement of one of the co-accused namely, Reshma. He also submits that the petitioner is not involved in any other case and his jail conduct is also found to be satisfactory. He further submits that the testimony of the prosecutrix is full of contradiction and improvements and that the petitioner was earlier released on interim bail from 19.01.2016 to 24.01.2016 and he did not misuse the said concession and surrendered in time.

3. Learned APP for the State has opposed the bail application and submits that the offences are grave as the provisions of ITP Act are also invoked. He refers to the impugned order dated 28.01.2020 to submit that the prosecutrix was duped by the accused persons in criminal conspiracy with each other and they sold the prosecutrix to the present petitioner. The petitioner had also committed rape twice upon the prosecutrix. Learned APP for the State, on instructions, confirms that the statement of one of the accused is remaining i.e., Reshma.

4. At this stage, learned counsel for the petitioner submits that all the other accused persons have already been released on regular bail and the petitioner is the only person now in custody.

5. As per the nominal roll received from the concerned Jail, the petitioner has spent about 7 years 6 months and 12 days as on 01.08.2020. The petitioner's jail conduct has been reported to be satisfactory.

6. Looking into the facts and circumstances of the case and the fact that all the material witnesses have been examined, the petitioner is admitted to regular bail on his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/Duty MM/concerned Court and subject to the following conditions:-

- (i) The petitioner shall not try to get in touch with the complainant or any other prosecution witness directly or indirectly and shall not make any effort to tamper with the evidence.
- (ii) The petitioner shall not leave the jurisdiction of NCT of Delhi during the period of trial without the prior permission of the concerned Court.
- (iii) The petitioner shall remain available on his telephone number (Mob. No. 9871528380) which he undertakes to keep operational at all times and in the event of change of his residential address, shall inform the same to the concerned I.O./SHO as well as to the concerned Court.

- (iv) The petitioner shall report telephonically to the I.O. SI Karmveer Singh (Mob. No. 9968548545) and ACP Surender Kumar Gulia (Mob. No. 9810272988), on every Monday during the pendency of the trial.
 - (v) The petitioner shall regularly appear before the concerned court as and when the application is being taken up for hearing.
- 7. With the above directions, the present application stands disposed of.
 - 8. The date already fixed in the present application stands cancelled.
 - 9. A copy of this order be communicated to the concerned court and the concerned Jail Superintendent electronically for information and necessary compliance.

MANOJ KUMAR OHRI, J

AUGUST 05, 2020

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