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

+ **BAIL APPLN.822/2020**

SALM AN

.....Petitioner

Represented by: Mr.Sunil Tiwari, Adv.

versus

THE STATE (NCT OF DELHI)

.....Respondent

Represented by: Mr. Izhar Ahmed, APP for the
State

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

19.05.2020

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1. The hearing has been conducted through video conferencing.
2. By this application the petitioner seeks interim bail on the ground that the petitioner's wife is due to deliver on 12th June, 2020.
3. A case FIR No. 514/2019 was initially lodged under Section 376/328 IPC when the prosecutrix 'S' alleged that she had met her friend Ashish on 7th November, 2019 whereafter they had gone out when she was given a Pepsi to drink whereafter she became unconscious. The prosecutrix alleged that Ashish tore her clothes, molested and raped her.
4. Statement of the prosecutrix was subsequently recorded under Section 164 Cr.P.C. on 9th November, 2019 wherein she stated that her brother-in-law i.e. the present petitioner offered her a sum of Rs.25,000/- to get registered a false FIR against Ashish. She further informed that Salman i.e. the present petitioner induced her into false implication in connivance with Rakesh Chadha and Sunil Verma, the latter being the brother of Ashish. For this false implication the prosecutrix was sent to the house of Ashish as a

P.G. accommodation seeker and thereafter the victim gave her first statement on which FIR No. 514/2019 was registered.

5. Pursuant to the investigation thus no charge-sheet was filed against Ashish but has been filed against the petitioner, Rakesh Chadha, Sunil and the prosecutrix. All the accused have since been arrested except co-accused Rakesh Chadha against whom proceedings under Section 82 Cr.P.C. have been initiated.

6. Learned APP for the State opposing the interim bail application states that the wife of the petitioner is the witness of the prosecution and hence there is every chance of her being tutored in case the petitioner is released on bail.

7. Learned counsel for the petitioner has read out the statement of the wife of the petitioner recorded under Section 161 Cr.P.C. according to which she only stated that on receiving a phone call from the Police that her sister was present in an unconscious state, she took her sister to the Police Station where she made her first statement based whereon FIR No. 514/2019 was registered.

8. It is thus evident that the wife of the petitioner is not a material witness for the purpose of false implication and proceedings under Section 195/195A/193/182/211/34 IPC but a purported witness at the first instance in making her sister give a statement to frame Ashish in a false case.

9. As per the status report filed the factum that the petitioner's wife is due to deliver in the middle of June has been verified. It has also been verified that there is no one in the family except one year old son of the petitioner. As per the statements of the neighbours recorded, the parents of the petitioner do not come to visit their daughter-in-law.

10. Considering the fact that the wife of the petitioner is due to deliver in the middle of June and there is no one to look after her and besides the same a minor child aged 1 year has also to be looked after, this Court deems it fit to grant interim bail to the petitioner. It is therefore directed that the petitioner be released on interim bail for a period of three months on his furnishing a personal bond in the sum of Rs.15,000/- with one surety bond of the like amount to the satisfaction of the Superintendent Tihar Jail. The petitioner and the surety would also furnish their mobile phone numbers which would be kept in active mode during the period of interim bail.

11. Application is disposed of.

12. Copy of the order be uploaded on the website.

MUKTA GUPTA, J.

MAY 19, 2020

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