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

+ **BAIL APPLN. 2207/2020**

MANOJ

..... Petitioner

Through Mr Mahipal Singh, Advocate.

versus

THE STATE (N.C.T. OF DELHI)

..... Respondent

Through Mr Ravi Nayak, APP for State with WSI
Usha PS Bindapur with complainant.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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27.08.2020

[Hearing held through videoconferencing]

CRL.M.A. 11062/2020

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

BAIL APPLN. 2207/2020

3. The petitioner has filed the present petition, *inter alia*, praying for grant of bail in FIR No. 566/2020, under Sections 354/354-A/376/509 of the IPC, registered with PS Bindapur.
4. The said FIR was registered on 23.05.2020 pursuant to a complaint made by Ms 'P' (name withheld). She had made a complaint on 06.05.2020. She alleged that she was in need of a job and was in conversation with the petitioner in this regard since twenty days prior to the date of the incident,

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that is, 16.03.2020. She alleged that on 16.03.2020, the petitioner had called her to Dwarka *Mor* Metro Station and he was sitting in his car (bearing No.DL-10CM-5894). She alleged that she got into the car and the petitioner started misbehaving with her. He caught hold of her hand and inappropriately touched her chest. She stated that she objected to this but the petitioner threatened to kill her and continued to misbehave with her. She alleged that the petitioner threatened her that if she narrated this incident to anybody, she would face the consequences for the same. She stated that she was scared and therefore, did not report the incident at the material time. However, she somehow gathered courage thereafter and made a complaint on 06.05.2020. Her statement was also recorded and pursuant to which, the FIR was registered on 23.05.2020.

5. Thereafter, Ms 'P's' statement under Section 164 of the Cr.PC was recorded on 01.06.2020. In her statement under Section 164 of the Cr.PC, she stated that the petitioner had misbehaved with her (*cherkhani karta tha*) and had also raped her. Prior to this occasion (recording of her statement under Section 164 of the Cr.PC on 01.06.2020) no such allegation had been made by her. It is material to note that she also did not provide any specific details including the place where she had been raped or the time of such incident, in her statement. Thereafter, her statement under Section 161 of the CrPC was recorded wherein she had stated that the petitioner had taken her to OYO Hotel in Sector-17, Dwarka, Delhi and had forcibly established physical relationship with her at the said hotel.

6. According to the IO, Ms 'P' stated on inquiries that the said incident had taken place on the first floor of a OYO Hotel. The status report indicates that inquiries were made from the management/owner of the said hotel and

it was found that the same was not operational since 11.06.2019. The IO states that the inquiries from the guard of the Hotel had also revealed that the hotel was not operational since the said date. On a specific query to the IO (who has joined the proceedings through video conferencing), she states that she had visited the first floor of the hotel building and found that it was in a completely damaged and uninhabitable condition.

7. The complainant has also joined the proceedings through video conferencing. On inquiring from her as to whether the hotel was operational on the date of the incident, she responded in the affirmative. She states that there were persons/boys managing the counter on the ground floor of the hotel on the date of the incident and there was also a cabin there.

8. The petitioner was arrested on 06.06.2020.

9. It is apparent from the above that the complainant has been improving her statement with each consecutive statement. First of all, she did not report the incident immediately after the incident of 16.03.2020. She lodged a complaint after a considerable period of time of more than six weeks. Further, the FIR was also registered after a period of seventeen days thereafter. In her initial statement, she had made allegations of the petitioner misbehaving with her but had made no allegations of being raped. As observed above, the allegation of rape was made for the first time on 01.06.2020 and that too without mentioning any details. Although, the complainant claims that she did not report the incident as she was scared of the petitioner. *Prima facie*, this explanation is difficult to accept because she did file a complaint on 06.05.2020 and pursuant to her statement, an FIR was registered on 23.05.2020. At this stage, there was no reason for her to conceal the offence of rape.

10. Her allegations regarding the place where she had been allegedly raped is not supported by the investigations that have been carried out.

11. In view of the above, this Court considers it apposite to allow the present petition. The petitioner shall be released on bail on his furnishing a personal bond in the sum of ₹10,000/- with one surety of the equivalent amount to the satisfaction of Trial Court/Duty Magistrate. This is also subject to the following further conditions:-

- (i) that the petitioner shall provide a contact number and ensure that he is reachable at all times;
- (ii) that the petitioner shall not contact the complainant or any of her family members either directly or indirectly;
- (iii) that the petitioner shall not try to influence any of the possible witnesses either directly or indirectly;
- (iv) that the petitioner shall not leave the National Capital Territory of Delhi without informing the SHO of concerned police station (PS Bindapur);
- (v) that the petitioner shall ensure that he is available for all proceedings before the Trial Court.

12. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

AUGUST 27, 2020

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