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

+ **BAIL APPLN. 2382/2020**

NADEEM

..... Petitioner

Through Mr Manoj Kumar, Advocate.

versus

STATE NCT OF DELHI

..... Respondent

Through Mr Amit Gupta, APP for State.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

10.09.2020

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[Hearing held through video conferencing]

1. The petitioner has filed the present petition seeking bail in FIR No. 46/2020 under Section 376 of the IPC registered with PS I.P. Estate.
2. The said FIR was registered at the instance of one Ms 'S' (name withheld). On 04.04.2020, a PCR Call was made by the mother of Ms 'S' alleging that the petitioner had raped her daughter on the previous night. Ms 'S' was medically examined at Lok Nayak Jai Prakash Narayan Hospital and her statement was recorded.
3. Ms 'S' alleged in her statement that on 03.04.2020, she had gone to the house of the petitioner to get some water as water supply was not available in the evening. She alleged that the petitioner along with his mother were present in the house and the petitioner's mother gave her a sum of ₹100/- to bring milk for preparing tea. She stated that she brought the milk and gave

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the same to the petitioner's mother. Thereafter, Ms 'S' went to the upper floor of the house where the petitioner was present for serving him tea. Ms 'S' alleged that the petitioner made her sit in the room and removed her clothes. He gagged her and then raped her. She stated that thereafter, she came down from the upper floor and left for her house. She narrated the incident to her mother. She claims that she along with her mother went to the house of the petitioner to accost him but he had fled.

4. The clothes of the petitioner were seized and have been sent to FSL for seeking report. Mr Gupta, learned APP states that the said report is awaited.

5. The learned counsel appearing for the petitioner states that there is a delay in filing the FIR as the incident was not reported immediately. The learned counsel appearing for the petitioner also contends that there are inconsistencies in the statements made by Ms 'S' and her mother. Whereas, Ms 'S' states that she had narrated the said incident immediately on returning to her house, the statement of her mother indicates that she was informed about the incident much later.

6. The learned counsel appearing for the petitioner submits that the statement on the basis of which the FIR has been filed is also inconsistent with the narration of the incident reported to the concerned doctor during her medical examination. The MLC records that Ms 'S' had stated that she had taken money from the petitioner to fetch milk for making tea. She had returned with the milk and had gone upstairs to return the change to Nadeem (the petitioner). She alleged that he had overpowered her and had closed the door from inside and had sexual intercourse with her for about ten minutes. She further stated that she had tea with the petitioner and thereafter returned

to her home; on returning home, her mother had asked her about the bleeding and she had revealed the said incident following which the complaint was made.

7. The MLC does not indicate any external injuries on the petitioner.

8. Ms 'S' has joined the proceedings and she states that she is well acquainted with the petitioner for some time. She states that she has no objection if the petitioner is released on bail; in fact, she joins the petitioner in praying that he be released on bail. This Court has also interacted with her and tried to ascertain whether she is under any pressure or any coercion to make such prayer. Ms 'S' has unequivocally stated that she wants to get the petitioner released on bail and she is emphatic that she is under no pressure from anybody.

9. Considering the above, this Court is of the view that it is apposite to allow the present petition. The petitioner is directed to 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 the concerned Trial Court/Duty Magistrate. This is also subject to the following further conditions:-

- (a) that the petitioner shall provide a contact number and ensure that he is reachable at all times;
- (b) that the petitioner shall ensure that he is available on all proceedings before the Trial Court;
- (c) that the petitioner shall not leave the National Capital Territory of Delhi or shift his residence without informing the concerned police station;
- (d) that the petitioner shall mark his presence before the concerned SHO (SHO PS I.P. Estate) on first Monday of each calendar month;

- (e) that the petitioner shall not try to influence either the victim or any of her family members or any other witnesses either directly or indirectly.
10. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

SEPTEMBER 10, 2020

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