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

+ BAIL APPLN. 2262/2019

DEEPAK KUMAR

..... Petitioner

Through: Mr. BN Jha, MR. TK Mishra, Advs.

versus

GOVT. OF NCT OF DELHI

..... Respondent

Through: Mr. Kewal Singh Ahuja, APP for  
State with ASI Raghubir Prasad, PS  
Naraina.

**CORAM:**

**HON'BLE MS. JUSTICE ANU MALHOTRA**

**ORDER**

**17.01.2020**

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The applicant seeks grant of bail under Section 439 of the Cr.PC, 1973 in relation to the FIR No.79/2018, PS Naraina, under Sections 452/436/326/427/307/506 of the Indian Penal Code, 1860 submitting to the effect that the applicant has been incarcerated since 07.04.2018 and no useful purpose would be served by further incarceration of the applicant in custody in as much as the recording of the testimony will take time.

Pursuant to directions dated 18.11.2019, the certified copies of testimonies recorded in the case have been placed on record. The TCR is also received.

It has been submitted on behalf of the applicant that there are variances in the testimony of the complainant and other witnesses qua the prosecution version whereas the petitioner seeks to contend through the supplementary statement that there was a motorcycle in the room from which the petrol was taken by the applicant in an empty coca cola bottle and spread on to the bed of the complainant which was set on fire, as a

consequence of which, the complainant and one Shri Satender and a child named Sakshi had been injured. Learned counsel for the applicant relied on the testimony of the complainant recorded during trial to contend to the effect that there are variations in the version qua the motorcycle being within the room of the complainant or petrol having been drawn from the motorcycle and of the existence of the very motorcycle itself with it having been submitted on behalf of the applicant that even the expert from the FSL i.e. Mr. Naval Kishore Joshi, Sr. Scientific Officer (Chemistry), FSL, Sector-14, Rohini examined as PW 9 on 20.11.2019 before the learned trial Court had testified to the effect that there was no kerosene/ diesel / petrol deduced *inter alia* in Ex.1/A to 1/B, which were the bottles that had been produced.

On behalf of the State the application has been vehemently opposed submitting to the effect that the FIR *per se* is not an encyclopaedia of the facts of the case and the testimony of the complainant is categorical in relation to material particulars with reference having been made to the testimony of the complainant examined on 15.02.2019 in relation to a statement that it was the applicant who had spread petrol on the bed and other items and set them on fire, as a consequence of which, the bed, mattress and clothes were burnt and a person named Satender and a girl had come inside the room to save her and the applicant had put a knife on her neck and the person named Satender had pounced upon the applicant due to which the knife fell down from the hand of the applicant and that even Satender had suffered burn injury on his face and the clothes of the Satender caught fire and the girl who was in the room had also been injured. It has been submitted on behalf of the State that even during the further cross-

examination of the complainant conducted on 25.04.2019, she was categorical in her testimony to the effect that the applicant had put the petrol on to the bed of the complainant. It has also been submitted on behalf of the State that the statement of the minor child aged 6 years recorded on 18.07.2019 in camera proceedings also corroborate the prosecution version whereas she has denied having been tortured or having deposed falsely and has testified to the effect that she has sustained burn injury on her feet and bandage was put on her feet for three days and a person has spread petrol in the house of Pari and the same had caught fire when she has gone to the house of Pari, Pari being the daughter of the complainant.

Without any observations on the merits or demerits of the trial that is in progress before the learned trial Court, it is essential to observe that the testimony of PW 9 Mr. Naval Kishore Joshi the SSO Chemistry testifies categorically *inter alia* to the effect that he identifies the burnt material to be the part of the bed which has been examined by him indicating thus that the bed of the complainant had been burnt as asserted through the prosecution version.

In the circumstances, there is no ground for grant of bail.

Nothing stated hereinabove however shall amount to any expression on the merits or demerits of the trial.

The application is declined.

The TCR be returned.

**ANU MALHOTRA, J**

**JANUARY 17, 2020**

**vm**