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

+ **BAIL APPLN. 3020/2019**

**SAT NARAYAN @ SATY**

Through

..... Petitioner

Mr. Saurabh Tiwari, Adv. with father  
of petitioner

versus

**STATE**

Through

..... Respondent

Mr. Hirein Sharma, APP for State  
WSI Lalita, PS Munka

**CORAM:**

**HON'BLE MR. JUSTICE SURESH KUMAR KAIT**

**ORDER**

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**14.01.2020**

The present petition is filed under section 439 Cr.P.C. for grant of bail in pursuance to FIR No.70/2017 dated 12.03.2017 registered at Police Station Mundka.

The case of prosecution is that the petitioner was arrested on the date of incident i.e. 12.03.2017 and since then he is in judicial custody thus, he has completed 2 years and 9 months as on date. The prosecutrix was examined in Court and has been cross examined on 31.05.2019.

As per the version of the prosecutrix in the FIR as well as in the statement of the prosecutrix recorded u/s 164 Cr.P.C, out of the five accused persons only four accused persons (including accused Satish Kumar) had raped her and the fifth accused i.e. the petitioner herein did not rape her. She further stated that in the morning the petitioner paid the prosecutrix Rs. 100/- or 200/- and asked her to leave by Bus.

Counsel appearing on behalf of petitioner submits that co-accused Satish Kumar had already been released on bail vide order dated 12.09.2019 by this Court.

Further submits that as per the FIR, the prosecutrix states that the driver of the bus and one more person who brought a magic vehicle took her to the room (where she was raped). Three more persons were already present in the said room. While in her statement u/s 164 Cr.P.C. she states that the driver of the bus and his four associates took her to the said room. While in her statement recorded in Court she stated that the driver of the said bus had taken her to a room in the locality of P.S. Mundka. The said driver was accompanied by four other persons. Whereas, in the FIR the prosecutrix stated that Satya Narayan (petitioner) did not rape her and kept on standing outside of the said room and also in the morning, that one of them brought her to the main Rohtak Road and asked her to go anywhere she wants.

In her statement u/s 164 Cr.P.C. the prosecutrix has stated that out of the five only four persons raped her. The fifth boy (Satya Narayan) who had not raped her gave her ₹200/- and ran away.

In her statement in the Court she stated that the fifth accused the petitioner had raped her and gave ₹ 100/- in the morning and ran away.

Learned APP appearing on behalf of State has opposed the present petition by stating that accused Satish was granted bail by this Court vide order dated 12.09.2019 on the ground that prosecutrix did not identify him in the Court. The other co accused Sunil was also granted bail vide order dated 01.11.2019 by the Trial Court based on the fact that Sunil is not the same who raped her.

However, without commenting on merits of the prosecution case,

which is pending trial, it has come on record that there are various versions regarding the allegations against the petitioner. However, it is consistent that ₹100 or ₹200 were paid in the next morning by the petitioner and asked her to go.

Accordingly, the petitioner shall be released on bail on his furnishing personal bond in the sum of ₹15,000/- with one surety of the like amount to the satisfaction of the Trial Court.

Before parting with the order, it is relevant to mention that nothing contained in this order shall be construed as an expression on the merits of the case. The Trial Court shall not get influenced by the observations made by this Court, while passing the final orders in the trial.

The present bail application is allowed and disposed of.

Copy of this order be transmitted to the Jail Superintendent and the Trial Court concerned for compliance.

Order *dasti* under the signatures of Court Master.

**SURESH KUMAR KAIT, J**

**JANUARY 14, 2020**

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