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

+ **BAIL APPLN. 1379/2023**

**DEEPAK JHA @ RAVI**

..... Petitioner

Through: Ms. Neetu Rai & Mr. Alok Kumar  
Rai, Advocates.

versus

**STATE GOVT.OF N.C.T.DELHI**

..... Respondent

Through: Ms. Meenakshi Dahiya, APP with  
W/SI Amrita, PS-Anand Parbat, for  
the State.

Ms. Aishwarya Rao, Advocate for  
victim/ prosecutrix.

**CORAM:**

**HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA**

**ORDER**

**05.02.2024**

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1. An application for bail has been preferred under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') by the petitioner for grant of bail in FIR No.77/2017, under Section 363 IPC, registered at PS: Anand Parbat. Later, Sections 212/328/376/364/34 IPC were also invoked.

2. In brief, as per the case of the prosecution, complainant reported on 09.03.2017 that his daughter 'X' aged about 17 years is missing and suspected that his neighbour Ravi may be involved. FIR was accordingly registered. Sections 376/364/328/34/212 IPC were subsequently invoked. During the course of investigation, petitioner was arrested. Prosecutrix/ victim, alleged that on 08.03.2017 when she was returning from her



coaching, co-accused Kaushal Jha met her and took her to Sarai Rohilla Railway Station at pointing of knife. Petitioner therein threatened that he will ruin life of her sister, in case, she refused to marry him. Thereafter, he took her to Vaishno Devi and forcibly established physical relations after administering some substance in the cold drink. Petitioner thereafter took her to Balaji, wherein also sexual relations were established forcefully. Victim was thereafter handed over to police by Advocate of the petitioner.

3. Learned counsel for the petitioner submits that the earlier Bail Application preferred by petitioner was dismissed prior to recording of evidence of the prosecutrix. It is further submitted that the families had inimical relations, as stated by prosecutrix during the course of cross-examination. The petitioner is stated to have been falsely implicated, as prosecutrix had never accompanied the petitioner to Vaishno Devi or Balaji, as alleged. It is further pointed out that in another FIR No.85/2015 under Sections 323/354/452/509/506 IPC under Sections 10/12 of the POCSO Act registered at PS: Anand Parbat, petitioner stands acquitted.

4. On the other hand, the application is opposed by the learned APP for the State. It is submitted that the prosecutrix was a minor on the date of the incident (i.e. aged about 17 years) and as such her consent is immaterial. Further the factum of rape stands established and is corroborated by the FSL report, which concludes that the biological stains i.e. seminal stains present on the source of exhibits '2a' (*Pyjama* of victim) are from the source of exhibit '3a' (blood sample of accused / petitioner).

5. Admittedly, consent of the petitioner being a minor is immaterial since she was aged about 17 years on the date of incident. The stand of the petitioner is that he has been falsely implicated due to inimical relations and



no such incident had happened since prosecutrix was not taken by the petitioner to Vaishno Devi or Balaji. However, the same appears to be contrary to record, since FSL report corroborates the factum of physical relationship. At this stage, it may not be appropriate to express opinion on the merits of testimony of the prosecutrix.

Considering the facts & circumstances of the case, no grounds are made out for admitting the petitioner to bail. Application is, accordingly, dismissed. Pending application if any also stands disposed of.

A copy of this order be forwarded to the learned Trial Court for information.

**ANOOP KUMAR MENDIRATTA, J**

**FEBRUARY 5, 2024**

*B.S. Rohella*