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

+ **BAIL APPLN. 2069/2023**

RAJESH KUMAR

..... Petitioner

Through: Mr. Amit Saxena, Mr. Kapil C.,
Mr. Brijesh Sharma, Mr. Deepak
Sharma and Ms. Shakti Mann,
Advocates.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State.
Ms. Kalpana, Advocate for
complainant alongwith complainant
in person.
SI Pooja Saraswat, PS Malviya
Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **27.02.2024**

1. The present application under Section 438 of the CrPC read with Section 482 of the CrPC seeks anticipatory bail in case FIR No. 250/2023 under Section 376 of the IPC registered at PS Malviya Nagar.
2. The case of the prosecution, as stated in the status report authored by SHO, PS Malviya Nagar, is as under:

“Most respectfully, it is submitted that the present case was registered on the complaint of Ms. “R” alleging sexual assault against Raj @ Rajesh Kumar S/o Ramashish Prasad R/o 90/27B, Top floor, Malviya Nagar, New Delhi, wherein she alleged that on the intervening night of 18/05/2023 and 19*/05/2023, she had a telephonic communication with her friend namely Sangeeta. Sangeeta along with her known person namely Raj came to pick the victim from her house at Hauz



Rani and all three of them went to PVR Saket, where they had nimbu pani from a shop and then they decided to return back to their respective houses. Accused/petitioner Raj first dropped Sangeeta to her house in Begumpur and then took the victim to his house where he offered food and alcohol to the victim, and after getting her drunk, he made physical relation upon her. On the above, complaint, the above-mentioned FIR was registered U/S 376 IPC at PS Malviya Nagar”

3. Learned counsel for the applicant submits that the allegation against the latter are false. It is submitted that as per the version of the victim, the alleged incident took place on 19.05.2023 and the FIR was registered on 24.05.2023, after a delay of 5 days, which has not been explained. It is submitted that the applicant was granted interim protection *vide* order dated 16.06.2023 passed by a predecessor bench of this Court, pursuant to which he joined the investigation. It is submitted that the investigation is now complete and the chargesheet stands filed.
4. *Per contra*, learned APP for the State submits that the delay in registration of the FIR was on account of the fact that the victim was unconscious for two days after the incident. On instructions of the Investigating Officer, learned APP further submits that pursuant to interim protection granted by this Court, the applicant has joined investigation, which now stands complete and chargesheet stands filed.
5. Learned counsel for the complainant submits that the applicant threatened the victim with dire consequences, with regard to which a complaint was made to the DCP, Hauz Khas (South) on 05.07.2023.
6. Heard learned counsel for the parties and perused the record.
7. Pursuant to the interim protection granted by this Court, the applicant joined the investigation, which is now complete and a chargesheet has been



filed before the Court of competent jurisdiction.

8. As far the complaint made by the victim to the DCP is concerned, a status report with regard to the same was called for *vide* order dated 16.10.2023. Consequently, a status report dated 08.02.2023 authored by SHO, PS Malviya Nagar has been handed up in Court and the same is taken on record. The said status report, in para 2, records as under:

‘During the course of enquiry, the complainant was asked to join the enquiry to identify the place of incident and provide the mobile number on which the call was received from Sangeeta. Despite several requests, the complainant failed to join the enquiry and provide her mobile number.’

9. In totality of the facts and circumstances of the case, the present application is allowed. In the event of arrest, the applicant is directed to be released on bail on his furnishing personal bond of Rs. 25,000/- with one surety of like amount to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave the country without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The applicant shall join investigation as and when called by the Investigating Officer concerned.
- v. The applicant will not try to influence the witnesses in any manner.



- vi. The applicant shall provide his mobile number to the Investigating Officer and intimate about any change.
10. The application is allowed and disposed of accordingly.
11. Pending applications, if any, also stand disposed of.
12. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.
13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

FEBRUARY 27, 2024/sn