



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

Reserved on : 13.12.2023

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Pronounced on : 10.01.2024

+ **BAIL APPLN. 2175/2023 & CRL. M.A. 28009/20023**

RAVI @ RAVINDER

..... Petitioner

Through: Mr. R.P.S. Bhatti, Advocate (through
VC)

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR. ... Respondents

Through: Mr. Amit Ahlawat, APP for the State
with Insp. Y. Javed and SI Anju.
Mr. Gaurav Sharma, Adv. (DHCLSC)
for the victim alongwith the mother of
the victim.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No. 418/2020 under Sections 376/506/384/34 IPC and Sections 4/6 POCSO Act registered at Police Station Gazipur, Delhi.

2. Briefly stated, the facts of the case are that the present case was registered on the statement of victim "I" aged 14 years. The victim in her statement alleged that in April 2020, she had gone to the house of accused Sangam to meet his bhabhi at 5A, C2, Janta Flats, Mayur, Vihar 3, Delhi-



96. Sangam arrived and molested her at first by threatening her to spread defamatory news about her. She further alleged that in June 2020, when she went to the house of Sangam again to meet his Bhabhi, Sangam was present at home, he pulled her inside a room and raped her there. He forbade her to tell this incident to anyone, otherwise he will spread news of her affair with M and started blackmailing her. After that, Sangam started extorting money from her and directed her to get money from truck driver Ravi (present petitioner) who worked at Haldiram Store. He also told her that Ravi (petitioner herein) likes her. Victim started talking with Ravi.

3. Victim further alleged that whenever, she demanded money from petitioner, he always made some excuse. Victim further alleged that on 31.10.2020, petitioner called her at community hall in Kondli to give her money. Victim reached there on the said date at the stated place where she met petitioner who made her sit in a truck and took the truck to Khora Park where Ravi sexually assaulted the victim and dropped the victim at around 10:30 p.m at Kondli Mor from where victim reached home and narrated the incident to her parents. After the registration of the FIR the investigation was carried out.

4. The medical examination of victim was done at LBS hospital vide MLC No. 23/10 dt. 1/11/20 and she was counselled by NGO counsellor where she disclosed history of sexual assault and corroborated version of her complaint. Doctor produced the medical exhibits of the victim which were sent to FSL. Statement U/s 164 Cr.P.C of the victim was got recorded at Karkardooma Court in which she corroborated her version of FIR. Victim



was also produced before the CWC where she again corroborated the version of FIR. The petitioner was arrested on 01/11/2020 on the identification of victim.

5. I have heard the Ld. counsel for the petitioner, Ld. APP for the State ably assisted by the Ld. (DHCLSC) counsel for the victim and perused the records of this case.

6. It is submitted by the Ld. counsel for the petitioner that the petitioner has been falsely implicated. It is further submitted that the MLC as well as the FSL report clearly suggest that no intercourse/rape had taken place as there are no injuries mentioned in the MLC. It is further argued that the victim as well as the mother of the victim had made improvements in their statements at the stage of prosecution evidence during the course of the trial. It is further submitted that the MLC clearly belies the prosecution's case.

7. It is further submitted by the Ld. counsel for the petitioner that the petitioner is a young boy of 26 years of age and has a family to support. It is further submitted that co-accused Ramu Yadav is on bail.

8. On the other hand, it is submitted by the Ld. APP for the State assisted by the Ld. (DHCLSC) counsel for the victim that the allegations against the petitioner are grave and serious in nature. It is further submitted that the petitioner was arrested on 01.11.2020 on the identification of the victim and the truck in which the offence happened has also been recovered on the pointing out of the petitioner and identified by the victim.



9. It is further argued that even if there are contradictions in the medical examination and the testimony of the victim, the ocular testimony of the victim takes precedence and there is no reason why the testimony of the victim be discarded. It is further submitted that the petitioner is not entitled to parity and the victim was only 14 years of age at the time of the incident.

10. As far as the question of parity with co-accused Ramu Yadav is concerned, the petitioner is not entitled to the same as the allegations against the co-accused were made at a belated stage which is not so in the case of the petitioner.

11. It has been vehemently argued by the Ld. counsel for the petitioner that the MLC and the FSL report is not suggestive of any sexual assault upon the victim. As far as the question of contradiction between the MLC and the ocular testimony of the victim is concerned, the victim has categorically defined the role of the petitioner who was arrested at her instance and she has also identified the truck in which the offence was committed. This is not the stage to consider the contents of MLC, FSL report and testimonies of witnesses in order to reach at a definite finding, however, their *prima facie* value can be looked at. As far as the question of inconsistencies in the testimony of the victim viz a viz her statement U/s 161 Cr.P.C and 164 Cr.P.C are concerned, this cannot be analyzed in depth at this stage in order to discredit the testimony of the victim.

12. As far as the question of contradictions between the testimonies of PW-1 victim and PW 2 her mother is concerned, the deep analysis of the contradictions and inconsistencies cannot be done at this stage in order to



discredit either PW-1 or PW-2 because such analysis at this stage might prejudice the case of either of the parties i.e. the prosecution or the victim in the present case.

13. The allegations against the petitioner are grave and serious in nature. The victim has withstood the test of cross examination and as already stated hereinabove, she cannot be discredited at this stage by analyzing her testimony in depth in contradiction to the testimony of her mother i.e. PW-2. Therefore, in these circumstances, no ground for bail is made out. The bail application is, therefore dismissed. Pending applications if any are also disposed of.

14. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

RAJNISH BHATNAGAR, J

JANUARY 10, 2024

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