



\$~70

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 6819/2023**

XXX

.....Petitioner

Through: Mr. Rahul Sharma, Mr. S. Santanam
Swaminandhan, Mr. Kartik Malhotra,
Mr. Darsh Bansal, Mr. Atul harma,
Mr. Shambhavi Mishra, Mr. S.K.
Sharma, Mr. Abhilasha Shrawat, Mr.
Ashutosh Kashyap and Mr. Gagan
Chawdhary, Advocates.

versus

STATE & ANR.

.....Respondents

Through: Mr. Laksh Khanna, APP for State
with SI Amit Kumar, P.S. H.N. Din.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI
ORDER
06.08.2024

%

1. By way of the present petition, the petitioner/prosecutrix has assailed the order dated 16.08.2023 whereby respondent No.2/accused was admitted to regular bail in FIR No. 230/2023 registered under Section 376 IPC at P.S. Hazrat Nizamuddin.
2. Learned counsel for the petitioner contends that while passing the impugned order, the Ld. Sessions Court failed in complying with the directions passed by the Apex Court in Jagjeet Singh v. Ashish Mishra, reported as (2022) 9 SCC 321 as well as provisions of Section 439(1A) Cr.P.C. and also the practice directions issued by this Court vide Notification No. 37/Rules/DHC dated 24.09.2019, whereby the complainant



in the offence relating to sexual assault/rape is required to put to notice and also opportunity of hearing be given. Besides the IO, the Court is also under obligation to ensure that the complainant in such offences is put to notice.

3. A reading of the impugned order would show that the said regular bail application was entertained and disposed of by the Ld. ASJ on the very same day without any notice being issued to the complainant. Further, the order also does not reflect any application of mind.

4. Considering the peculiar facts and circumstances of the case, it is deemed apposite to remand back the matter for afresh consideration on merits in line with the aforesaid decisions and practice directions passed by this Court. However, the benefit of protection to the petitioner shall continue till his bail is considered on merits.

5. Needless to state that the present order is passed in view of the aforementioned facts and circumstances and shall have no bearing on the merits of the case.

6. Petition is disposed of in the above terms.

MANOJ KUMAR OHRI, J

AUGUST 6, 2024

ga