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

+ **BAIL APPLN. 2476/2024, CRL.M.A. 20730/2024**

RAM NIWAS

.....Petitioner

Through: Ms. Aakansha Kaul and Mr. R.K.
Ruhil, Advocates.

versus

STATE GOVT. OF NCT OF DELHI)

.....Respondent

Through: Mr. Satish Kumar, APP for the State.
W/Inspector Mithlesh and W/ASI
Reena, PS – Kashmiri Gate (Metro).
Mr. Ashok Kumar Arya, Ms. Suman,
Mr. Vijay Datt, Mr. Dushyant Nayak,
Mr. Abhishek Sharma and and Mr.
Prateek Gupta, Advocates for victim.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

09.08.2024

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1. The present application has been filed under Section 439 Cr.P.C. for grant of regular bail on behalf of applicant Ram Niwas in case FIR No. 15/2024 registered under Section 376/354/509 IPC registered at PS Kashmere Gate Metro, Central District, Delhi.
2. Briefly stated the FIR No. 15/2024 under Section 376/354/509 IPC was lodged on the statement of prosecutrix. Prosecutrix had alleged that while she was boarding the metro, the accused had inserted his finger in her private part. The accused/petitioner was caught red handed. After investigation the charge-sheet has been filed under Section



354/376/509 IPC.

3. Learned counsel for the petitioner submits that the petitioner is in custody since 01.04.2024. Learned counsel for the petitioner submits that the allegations made by the complainant on the face of it are not tenable. Learned counsel submits that though the offence was allegedly committed at a metro station which is a public place, the investigating agency has not cited any public witness. It has also been submitted that there is no CCTV footage. Learned counsel has also submitted that it is impossible that anyone can penetrate his finger into private parts over the clothes. Learned counsel submits that in any case these facts are to be appreciated during the course of trial.
4. Learned counsel for the complainant has vehemently opposed the bail application and submits that the complainant is a practicing advocate. It has been submitted that Section 375(b) specifically provides that if any object or a part of the body is inserted into the vagina, urethra or anus of a woman, it falls within the definition of rape. Learned counsel for the complainant submits that the prosecutrix/complainant in her statement under Section 164 Cr.P.C. has corroborated the version. Learned counsel submits that it is a very serious offence and if accused is released on bail, he may threaten or intimidate the complainant.
5. Learned APP for the State has also opposed the bail application on the ground that the accused allegedly committed a serious offence in public place and is not entitled to be admitted to bail.
6. I have considered the submissions. The rule regarding the grant of bail is very well settled. The rule is bail and not jail. The court while determining the question of bail is to look into the overall gravity of the



offence, antecedents, possibility of accused being available during the trial and all other circumstances. The facts in the present case are not doubt alarming on the face of it. The accused allegedly put his finger into the private part of the petitioner. However, the contention of the learned counsel that it is not possible to have been committed while the petitioner was wearing the clothes, cannot be rejected outrightly. This fact is a matter of appreciation of evidence.

7. It has also been submitted by the learned APP for state during the course of submission that incident is not covered in the CCTV. The facts are to be appreciated by the Ld. Trial Court during the course of trial. Accused is in custody since 01.04.2024. The charge-sheet has already been filed.
8. In view of the facts and circumstances, the petitioner is admitted to bail on furnishing a personal bond of Rs. 20,000/- with one surety of the like amount subject to the satisfaction of Jail Superintendent subject to the following conditions:
 - a) the Petitioner shall cooperate in the investigation and appear before the Investigating Officer of the case as and when required;
 - b) the Petitioner shall under no circumstances leave India without prior permission of the Court concerned;
 - c) the Petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
 - d) the Petitioner shall provide his/her mobile number(s) to the Investigating Officer and keep it operational at all times;



e) In case of change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.

9. In view of the above, the application stands disposed of.

DINESH KUMAR SHARMA, J

AUGUST 9, 2024/AR/KR..