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

+ **BAIL APPLN. 3492/2023**

**CHIRAG SHARMA**

.....Petitioner

Through: **Mr. Ashutosh Kaushik, Advocate.**

versus

**STATE NCT OF DELHI THROUGH CHIEF SECRETARY**

.....Respondent

Through: **Mr. Laksh Khanna, APP.**

**Ms. Sunita Arora, Advocate  
(DHCLSC) for Complainant along  
with Complainant in person.**

+ **BAIL APPLN. 3434/2024**

**RAJVEER ALIAS RAJ**

.....Petitioner

Through: **Mr. Pritish Sabharwal and Ms. Shweta  
Singh, Advocates.**

versus

**THE STATE OF NCT OF DELHI AND ANR.** .....Respondents

Through: **Mr. Laksh Khanna, APP.**

**Ms. Sunita Arora, Advocate  
(DHCLSC) for Complainant along  
with Complainant in person.**

**Mr. Kumar Shailabh, Advocate for  
respondent No. 2 with R-2 in person.**

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

**20.11.2024**

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1. By way of present applications, the applicants seek regular bail in FIR No. 339/2017 registered under Sections 376/354/370A/34 IPC and Sections 5/8 POCSO Act at PS Sangam Vihar, Delhi. As common submissions have been addressed, the matters are taken up together and disposed of vide this



common order.

2. Learned counsel for applicant-Chirag Sharma contends that the applicant is in custody since 18.10.2019 and the prosecution has cited 41 witnesses. He submits that there are glaring loopholes as well as improvements in the previous statements of the prosecutrix and her testimony recorded in Court. Whereas in court deposition, the prosecutrix stated that she was taken to the house of Chirag Sharma by the accused namely both the applicants herein, in her statement recorded during investigation, this allegation was levelled only against accused Rajveer alias Raj. In her statement recorded under Section 164 Cr.P.C., the prosecutrix omitted to give any detail about the oral sex alleged to have been committed by applicant. Further, in her statement recorded under Section 164 Cr.P.C., the prosecutrix stated that she was taken to a hotel in Noida however, this aspect was not stated at the time of her deposition. Even the police failed to seek any verification from the hotel and no CCTV footage was seized.

It is also contended that though, the prosecution has claimed the prosecutrix to be a minor, however, there is no substantial proof regarding her age, in as much as the prosecution has for the proof of age relied upon the affidavit furnished by her grandfather at the time of her school admission. It is submitted that during his testimony, the grandfather stated that he did not know the age of the prosecutrix and had given only an approximate age.

3. Learned counsel appearing for the applicant/Rajveer alias Raj submits that the applicant is in custody since 29.07.2017 and has also drawn the attention of the Court to the order dated 25.01.2024 passed by the Supreme Court in SLP (Crl) No. 14433/2023, whereby, disposing of the challenge to



the dismissal of his bail application by the Court, it was directed that the trial be concluded within six months, and in case, the same could not be done, liberty was granted to the petitioner to revive his application for bail on merits.

It is further submitted that the name of the applicant was initially not mentioned in the statement of prosecutrix recorded under Section 161 Cr.P.C. and it first came up at the time of recording of statement under Section 164 Cr.P.C. On merits, the submissions made on behalf of the other applicant are reiterated. Additionally, it is submitted that the applicant was released on interim bail for a period of two weeks, a concession which he did not misuse.

4. Bail applications are opposed by learned APP for State as well as Ms. Sunita Arora, learned counsel appearing for the prosecutrix, appointed by DHCLSC to represent the prosecutrix in the present applications.

5. Learned counsel for the prosecutrix states that allegations against both the applicants have surfaced right from the beginning at the time of recording of her statement under Section 161 Cr.P.C. Ms. Arora, on instructions, further submits that despite the offence being committed seven years ago, the prosecutrix still requires medical treatment due to infections received during the alleged incidents of rape.

6. I have gone through the material placed on record including the statements of the prosecutrix as well as her testimony recorded in Court. In her testimony, the prosecutrix has stated that she had left her house on 12.07.2017, and she went to see one *Aman*, claiming to be her boyfriend. She deposed that she went to Peepal Chowk, where she met one person by the name of *Ashish*. Initially, *Ashish* took her to his home and then to the



house of applicant/Rajveer alias Raj where initially *Ashish* committed the rape followed by another person who was brought by *Ashish* and Raj. The applicant/Rajveer also committed rape after *Ashish*.

7. The testimony of the prosecutrix is replete with incidents of offence of rape being committed by the present applicants and also by various others. She has deposed that *Ashish* and Raj thereafter had taken her to the house of one *Ejaz Anwar@ Azad*, who also pushed her into prostitution and alongwith Raj collected money. As deposed, the prosecutrix was thereafter taken to the applicant/Chirag Sharma, at whose house, initially nine people were brought, who committed the offence of rape on her, and paid money to applicant/Chirag Sharma, who also subsequently raped her. She also deposed to having seen *Raj* coming to *Chirag's* house and collecting money from his father.

8. Having examined the testimony of prosecutrix in detail, at this juncture, it is also noted that applicant Chirag Sharma was declared PO on 11.05.2018 and could be arrested after a gap of 1.5 year on 18.10.2019. It is also informed that in IA 13344/2024, the Supreme Court vide order dated 05.08.2024 has granted seven months' time to the Trial Court to conclude the trial. It is also informed that presently trial is at the stage of recording of statement of accused. After going through testimony of prosecutrix, I find no ground to release the applicants on regular bail.

9. At this stage, learned counsel for applicant/Rajveer alias Raj submits that applicant is suffering from schizophrenia and seizure disorder. The Medical Superintendent shall ensure that all necessary medical treatment is provided to the applicant, if so advised.



10. In view of the above, both the bail applications are hereby dismissed.

11. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

**MANOJ KUMAR OHRI, J.**

**NOVEMBER 20, 2024/R**