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

+ **BAIL APPLN. 4089/2023**

INAM ALI

..... Petitioner

Through: Mr Rahul Sharma, Mr Swapnil Sain,
Mr Kshitij Goel, Mr Rishav Sharma
and Mr Amit Kumar, Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr Hemant Mehla, APP for the State
with SI Bharti Singh, PS Burari.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

12.01.2024

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1. The present petition has been filed under Section 439 CrPC seeking regular bail in connection with FIR No.1022/2021 registered under Sections 376/376D/323/506/442/32 IPC registered at PS Burari.
2. The case of the prosecution is that on 09.12.2021, the prosecutrix informed the police that some people had gang raped her. She was found at the spot with both her hands tied with chunni. Allegations were made by the prosecutrix against three persons and she also alleged that one of the accused persons was making a video of the incident and one of them was constantly in touch with the present petitioner over the telephone. On the basis of the statement of the prosecutrix, the present FIR came to be registered.
3. Learned counsel for the petitioner submits that in the statement



recorded under Section 161 CrPC and Section 164 CrPC, the prosecutrix has stated that one of the person, namely Ahsan was present at the spot, and he was preparing video of the incident.

4. Learned counsel for the petitioner further submits that Ahsan has already been granted bail by this Court vide order dated 06.09.2023 passed in Bail Appln.1727/2022. In the said order it has been observed that the allegation against Ahsan was that he was preparing a video of the incident when the prosecutrix was being raped, but no such video has seen light of the day. In fact, the FSL report states that no obscene video was retrieved from the mobile seized from Ahsan, who is the brother of the wife of the present petitioner.

5. It is also observed in the aforesaid order that location of Ahsan's mobile on the date of incident was not of Delhi, where the alleged incident is purported to have taken place, rather the GPS location of the Ahsan's mobile phone was that of his native village i.e., Kotana, U.P.

6. The possibility of falsity in the allegations made in the FIR, as well as, in the statements of the prosecutrix under Section 161 CrPC and Section 164 CrPC has been noted by this Court while granting bail to the co-accused Ahsan. Since the said co-accused has already been granted bail *vide* detailed order dated 06.09.2023 passed in Bail Appln. 1727/2022, therefore, I am of the view that the same benefit can be extended to the present petitioner.

7. That apart, the prosecution has cited as many as 18 witnesses and only 03 witnesses have been examined. Evidently, the conclusion of trial is going to take long time and the further cannot be kept in custody to await the conclusion of trial.

8. It is not in the case of the prosecution that the petitioner is a flight risk



or that he may influence the witnesses, in the event he is enlarged on bail.

9. Accordingly, the petitioner is admitted to regular bail subject to his furnishing a Personal Bond in the sum of Rs.25,000/- and one Surety Bond of the like amount to the satisfaction of the learned Trial Court/CMM/Duty Magistrate, further subject to the following conditions:-

a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.

b) Petitioner shall provide mobile number, as well as, his permanent address to the IO concerned. He shall keep his mobile in working condition at all times and shall not change the mobile number without prior intimation to the Investigating Officer concerned.

c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the victim/complainant or any family members of the victim/complainant.

10. The petition is disposed of.

11. Copy of the order be forwarded to the Jail Superintendent for information and necessary compliance.

12. Order *dasti* under signatures of the Court Master.

VIKAS MAHAJAN, J

JANUARY 12, 2024
MK