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

+ **BAIL APPLN. 3540/2024**

MANOJ KUMAR

.....Petitioner

Through: **Mr. Ramit Malhotra, Advocate.**

versus

STATE NCT OF DELHI

.....Respondents

Through: **Mr. Satish Kumar, APP with SI Anjali.**

Ms. Smriti Sinha and Mr. Kushal Kumar Sinha, Advocates.

Mr. Avneesh Saran, Advocate.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

08.11.2024

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1. The instant bail application has been filed on behalf of the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (hereinafter as the “BNSS”) [earlier under Section 439 of the Code of Criminal Procedure, 1973] seeking regular bail in FIR No.846/2023 registered under Sections 328/376(2)(n)/406/420 of the Indian Penal Code, 1860 (“IPC” hereinafter) at Police Station-Narela Industrial Area.

2. Learned counsel appearing on behalf of the applicant vehemently submitted that the instant FIR was registered based on the erroneous statement made by the prosecutrix/complainant, which consists of incorrect facts. It is further submitted that the said statement, on the basis of which the instant FIR is registered, has not been filed along with the chargesheet.

3. It is submitted that the prosecutrix made contradictory statements



under Section 161 and Section 164 of the Code of Criminal Procedure, 1973 (hereinafter as the “Code”), and therefore, the contents of the same are not reliable.

4. It is further submitted that the petitioner and the prosecutrix have been in a consensual relationship and upon perusal of the statement under Section 161 and Section 164 of the Code, no offence under Section 376 or 328 of the IPC is made out against the applicant.

5. It is submitted that the prosecutrix allegedly narrated the entire sequence of events to her mother on the very next date of the first incident itself, yet there was an inexplicable delay in registering the instant FIR.

6. It is submitted that the applicant is innocent and has been falsely implicated in the instant case. Moreover, it is submitted that the applicant is languishing in jail since 8th October, 2023 and has clean antecedents.

7. Learned counsel for the applicant submitted that according to his instructions, the FSL report has now been received and the same is not supporting the prosecution case.

8. *Per Contra*, learned APP appearing on behalf of the State vehemently opposed the instant petition submitting to the effect that serious allegations of rape have been levelled against the applicant and therefore, the applicant is not liable for any concession of liberty from this Court.

9. It is submitted that as per the statement made by the prosecutrix under Section 164 of the Code, the prosecutrix was given pills and sedatives by the applicant, thereby making her unconscious and taking advantage of the situation, the applicant had allegedly raped the prosecutrix multiple times over a period of time. However, when the prosecutrix came to realise the same, the applicant had blackmailed her repeatedly.



10. During the course of arguments, the learned APP for the State handed over the case diary and Status Report. In view of the same, it is submitted that the applicant is charged with heinous offences as mentioned in the aforesaid FIR and the statement of the prosecutrix under Section 164 of the Code is clearly supporting the case of the prosecution.

11. It is further submitted that no material witnesses have been examined yet and if the applicant is released on bail, he may influence the witnesses, intimidate the prosecutrix, and may repeat such offence, thereby jumping the bail.

12. In view of the foregoing submissions, it is prayed that the instant application is liable to be dismissed.

13. Heard learned counsel for the parties and perused the record.

14. Upon perusing the contents of the case diary and Status Report, which is taken on record, it is observed that the applicant is charged with heinous offence of rape, which was alleged to have committed upon prosecutrix multiple times over a period of time. Moreover, the contents of the prosecutrix's statements under Sections 161 and 164 of the Code are clearly supporting the prosecution case i.e., case against the applicant for the offences mentioned in the instant FIR.

15. Further, it is informed that no material witnesses have been examined so far in the instant case. Given the gravity of the offences and allegations against the applicant, there is a high possibility of him jumping the bail and intimidating material witnesses, including the prosecutrix, if bail is granted, thereby compromising the veracity of the proceedings.

16. Therefore, taking into consideration the gravity of the offence, high probability of influencing material witnesses and prosecutrix, alongwith the



fact that no material witness has been examined, this Court is not inclined to grant regular bail to the applicant.

17. Accordingly, the instant bail application along with pending applications, if any, stands dismissed.

18. It is made clear that the observations made herein, touching upon the merits of the case, are purely for the purpose of deciding the question of granting of protection to the applicant, which shall not be construed as an expression of observations on the merits of the case.

CHANDRA DHARI SINGH, J

NOVEMBER 8, 2024

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