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

+ **BAIL APPLN. 3620/2024**

RAJESH TYAGI

.....Petitioner

Through: Mr. Kartickay Mathur and Mr. Atul,
Advocates.

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Shoaib Haider, APP for State
with SI Rashi PS Burari, Delhi.
Mr. Ashutosh Kaushik, Advocate
(DHCLSC) for prosecutrix.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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25.11.2024

1. By way of present bail application, the applicant/petitioner seeks regular bail in FIR No. 489/2024 registered under Sections 376(2)(n)/354D/328/506 IPC at Police Station Burari, Delhi.
2. Learned counsel for the applicant submits that the applicant is in custody since 18.07.2024 and that in her complaint, the prosecutrix has given a specific date of 24.02.2024, on which date at 07:00 PM, she was allegedly sexually assaulted by the applicant. He further submits that along with the charge-sheet, the Investigating Officer has also filed a CDR chart, showing that there were hundreds of calls exchanged between them, which rules out the allegations of forcible sexual relations.
3. The bail application is opposed by learned APP for the State duly assisted by learned counsel appearing for the prosecutrix, who submits that the allegations in her complaint were reiterated by the prosecutrix in her statement recorded under Section 164 Cr.P.C. It is further stated that though



the charge-sheet has been filed, the charges are yet to be framed and the prosecutrix is yet to be examined. It is also stated that the allegations in the FIR and the charge-sheet are categorical and date-specific.

4. I have heard learned counsel for the parties as well as gone through the material placed on record.

5. Both the prosecutrix and the applicant are statedly married to their respective spouses. The prosecutrix has claimed that while she was living on rent, the daughter of the landlord had exchanged mobile number of the prosecutrix with the applicant, subsequent to which they became known to each other, resulting in forcible sexual relations being established by the applicant with the prosecutrix. In the FIR, a specific date of 24.02.2024 is given on which it is stated that at about 07:00 PM, the applicant had committed the incident near Ibrahimpur (CST) behind flower garden in the wheat field. The CDR of that date has been placed on record, a perusal of which would show that while the incident is stated to have been committed at about 07:00 PM, there are calls exchanged between the applicant and the prosecutrix at 19:02:06 for 434 seconds; 19:13:14 for 1492 seconds; at 19:39:18 for 564 seconds and at 21:36:39 for 1800 seconds.

6. The aforesaid would indicate that between 07:00 PM to 11:00 PM on 24.02.2024 i.e., the date of the alleged incident, there was CDR connectivity between the applicant and the prosecutrix. The same would be appreciated by the learned Trial Court during the trial. At this stage, this Court is inclined to admit the applicant on regular bail and it is therefore directed that the applicant be released on regular bail subject to him furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/concerned Court/Duty



JMFC and subject to the following further conditions :-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
- ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
- iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
- iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
- v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.

7. The bail application is disposed of in the above terms.

8. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.

9. Copy of the order be uploaded on the website forthwith.

10. Needless to state that this Court has not expressed any opinion on the merits of the case and have made the observations only with regard to present bail applicant and 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 25, 2024/rd