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

+ **BAIL APPLN. 4074/2024**

MANISH

.....Petitioner

Through: Mr. Suraj Prakash Sharma, Advocate
(through VC).

versus

STATE GOVT. OF NCT OF DELHI AND ANRRespondents

Through: Mr. Shoaib Haider, APP for State
with SI Jitender and SI Birmati PS
Sarai Rohilla Railway Station, Delhi.
Mr. Abhishek Mahajan, Advocate
(*Amicus Curiae*) for respondent
no.2/prosecutrix

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

10.12.2024

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1. By way of present application, the petitioner/applicant seeks regular bail in FIR No.08/2020 registered under Sections 376-D/377/34 IPC at P.S. Sarai Rohilla, Delhi.
2. Learned counsel for the petitioner/applicant submits that the applicant is in custody since 22.12.2020 and all the material witnesses stand examined. On merits, it is contended that there are multiple versions of the prosecution case which have cropped up. While in her initial allegations, the prosecutrix has stated that rape was committed by three unknown persons, however, in her deposition she has admitted that the present applicant was already known to her. He has further referred to the testimony of the brother of the prosecutrix to submit that he has not fully supported the prosecution



case on the aspect of search.

3. The bail application is opposed by learned APP for the State duly assisted by Mr. Abhishek Mahajan, learned Amicus Curiae who has been appointed to represent the prosecutrix. Mr. Mahajan submits that though the prosecutrix has already been examined, however her testimony has not been placed on record. He has handed over a statement of prosecutrix before the Court to submit that the prosecutrix has all along consistently maintained her version that she was raped by three accused persons, one of which is the present applicant. She has clarified in her deposition that the story told by her initially was on the asking of the present applicant as the family of the prosecutrix was not agreeable to the marriage solemnized by her with one 'R'. It is submitted that on the day of the incident, the prosecutrix, after having a fight with her family, had gone to the railway station where the present applicant met her and induced her to present a make-believe story wherein she would go home with torn clothes and tell her in-laws that she was raped and that circumstance would entail the consequence of her getting divorced from her husband. He submits that there is no contradiction or different versions in the case of the prosecution or the statements of the prosecutrix. He submits that the prosecutrix has not only identified the present applicant but has also denied the suggestion to the contrary.

4. Learned APP for the State submits that in the trial out of 29 witnesses 17 witnesses have already been examined.

5. I have heard learned counsel for the parties and perused the material placed before me.

6. This Court is constrained to note that despite the testimony of the prosecutrix having been recorded on 04.08.2022, the same has not been



placed on record. The present bail application has been filed on 02.10.2024 i.e. nearly after a period of nearly two years and two months. On a plain reading of the testimony of the prosecutrix, this Court is of the prima facie view that the prosecutrix has stuck to the version she has narrated and has not only ascribed the role of the present applicant in committing rape but also clearly identified him.

7. For all of the aforementioned reasons, I find no ground to entertain the present application and the same is accordingly dismissed.

8. 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 as the observations are only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

DECEMBER 10, 2024/rd