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

+ **BAIL APPLN. 215/2025**

VIKRAM @ RAJU

.....Petitioner

Through: Mr. Praveen, Advocate.

versus

STATE (GOVT OF NCT OF DELHI)

.....Respondent

Through: Mr. Shoaib Haider, Ld. APP for State
with SI Aarti P.S. Narela.

Mr. Hemant Singh, Advocate for R-
2/victim.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

18.02.2025

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1. A Regular Bail Application under Section 483 read with 528 BNSS, 2023 has been filed on behalf of the Petitioner Vikram @ Raju in case FIR No.0462/2024 registered under Section 376(2)n/506/328 IPC at Police Station Narela, Delhi.

2. Brief facts of the case of the Prosecution is that on 27.07.2024 victim 'K' lodged the FIR stating that she and the accused were in physical relation from last 7-8 months before registration of FIR. On 25.07.2024 the husband of the Prosecutrix had seen them both in the compromising position and thus, the FIR got lodged. It is asserted that the Petitioner had been maintaining relationship with the Prosecutrix for the last 20-25 times. According to the Prosecutrix, the Petitioner had mixed intoxicant in her cold drink before committing the act for the first time. The First Regular Bail Application had been dismissed by the learned Sessions Court on



05.11.2024.

3. The **Bail is sought on the grounds** that the case of the Prosecutrix is false and fabricated and he has been implicated falsely in this case. There is an unexplained delay of 7-8 months in lodging the FIR from the date of first incident. The Prosecutrix is a married woman with children and there is no explanation for silence for such a long period. The Prosecutrix does not even know the date or month of the commission of the offence. The FIR has been lodged only because the husband of the Prosecutrix caught them in compromising position. The Prosecutrix never objected to sexual intercourse which may have taken place for days together on different occasions. The accusation of rape is either motivated or on account of the instinct of herself preservation.

4. The I.O has not seized the clothes of the Prosecutrix or the accused and have not been sent for chemical examination. The Prosecutrix has refused for her medical examination and there was no injury found on her private part.

5. There is no evidence against the Petitioner/accused for which Charges under Section 376(2)/328/506 IPC can be framed. There are inconsistencies in the Statement been made by the Prosecutrix to the Police under Section 164 Cr.P.C. Furthermore, while making the recovery of mobile phone from the Petitioner, the due procedure of video recording as prescribed under Section 105 BNSS read with 185 BNSS has not been followed while seizing the mobile phone.

6. The Petitioner is not involved in any other case except the present one. There is no likelihood of his absconding from law or of tampering with the prosecution witnesses.



7. Reliance has been placed on Ashok Kumar vs. State of M.P (1994) 4 Crimes 1077 (MP) to submit that when caught in an embarrassing situation in a surprised way, human experience tells that such woman would prefer to blame the person with whom she is in association in such odd hours of night. Her attempt is only to absolve herself from the possible blame by the husband. It is, therefore, submitted that the Regular Bail be granted to the Petitioner, who is in Judicial custody since 27.07.2024.

8. The **Status Report** has been filed on behalf of the State wherein it is submitted that the Charges under Section 376/506 IPC have been framed against the Petitioner and the matter is now fixed for evidence of the Prosecution on 02.04.2025. It is submitted that considering the allegations made by the Prosecutrix, the Bail Application be rejected.

9. **Learned counsel on behalf of the Prosecutrix** has submitted that she is a victim of circumstances and the bail is strongly opposed.

10. **Submissions heard and record perused.**

11. The Chargesheet has already been filed in the Court. According to the Petitioner it is a case of consensual relationship whereby the parties have been in relationship for 7-8 months. The mobile phone had been gifted by the Prosecutrix to the Petitioner. It is only when they were caught red handed by the husband, this false case of rape has been registered against him.

12. The Statement of the Prosecutrix has been delayed as the FSL Report is awaited. It is also stated that there is a video recording, but it was done with the consent of the Prosecutrix, who is now denying it merely because she wants to save her marriage. The Prosecutrix is an adult having three children and was equally a party to having the consensual relationship with



the Petitioner.

13. Considering the totality of circumstances and also that the recording of evidence may take some time as the FSL Report is awaited, the Petitioner/accused is granted Regular Bail, on the following terms and conditions:

- a) The petitioner/accused shall furnish a personal bond of Rs.25,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court.
- b) The petitioner/accused shall appear before the Court as and when the matter is taken up for hearing;
- c) The petitioner/accused shall provide his mobile number/changed mobile number to the IO concerned which shall be kept in working condition at all times;
- d) The petitioner/accused shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.
- e) In case the petitioner/accused changes their residential address, the same shall be intimated to learned Trial Court and to the concerned I.O.

14. The copy of this Order be communicated to the concerned Jail Superintendent as well as to the learned Trial Court.

15. The Status Report filed in the Court today, be taken on record.

16. The above Bail Application is accordingly disposed of.

NEENA BANSAL KRISHNA, J

FEBRUARY 18, 2025/va