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

\+ **BAIL APPLN. 825/2025**

RAHUL TIWARI .....Petitioner

Through: Mr. Jitendra Rexwal, Mr. Sunil Kumar, Mr. Sachin and Ms. Priti, Advs.

versus

STATE GOVT. OF NCT OF DELHI .....Respondent

Through: Mr. Sunil Kumar Gautam, APP for the State with SI Manisha Meena, PS Maidan Garhi.

Mr. Vaibhav Dubey and Mr. Nishant Gupta, Advs. for the victim / prosecutrix.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% 29.05.2025

1. The present application is filed seeking regular bail in FIR No. 376/2024 dated 07.08.2024, registered at Police Station Maidan Garhi, for offences under Sections 376/328 of the Indian Penal Code, 1860 (**IPC**).

2. The FIR was registered on an allegation that in April, 2022, the applicant took the prosecutrix to a hotel and gave her a cold drink mixed with some stupefying substance, which made her unconscious, whereafter the applicant committed rape on the prosecutrix and made objectionable videos and photos of her.

3. It is alleged that thereafter on different days, the applicant established sexual relations with the prosecutrix by blackmailing her.

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4. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case at the instance of family members of the prosecutrix. He submits that the prosecutrix has since been married.

5. He submits that even as per the case of the prosecution, the incident took place for the first time in April, 2022 and continued till June, 2023, whereas the complaint was given belatedly on 07.08.2024.

6. It is the case of the prosecution that the applicant had taken the prosecutrix to a hotel and committed rape on her after giving her a cold drink spiked with some stupefying substance.

7. The statement of the Manager of the hotel at this stage *prima facie* indicates that the prosecutrix and the applicant had gone to the hotel. The same does not indicate any offence.

8. At this stage, the case of the prosecution essentially rests upon the statement of the prosecutrix. Undoubtedly, for offences under Section 376 of the IPC, the conviction can be solely based on the statement of the prosecutrix when the same inspires confidence and is consistent.

9. However, it cannot be ignored that there has been a considerable delay in registration of the FIR. The complaint was given for the first time in the month of August, 2024 whereas the last incident, as per the complaint, took place more than a year prior, that is, in June 2023.

10. Although it is claimed that the prosecutrix was under threat since objectionable videos were made by the applicant, however, at this stage no such videos have been placed on record.

11. It is stated that the mobile phone of the applicant has been

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sent for FSL examination and the report is still pending.

12. In such circumstances, whether the alleged offence was committed can only be established after the entire evidence is led.

13. The applicant is in custody since 08.08.2024. The prosecutrix has already been examined.

14. Even though certain allegations have been made that threats were made to the mother of the prosecutrix, who is yet to be examined, the allegations are denied by the applicant.

15. It is the duty of the prosecution to protect the witnesses. Merely because certain allegations have been made, it cannot be a ground for rejecting the bail. Even otherwise, any apprehension that the applicant may tamper with the evidence or threaten the witnesses can be allayed by imposing appropriate conditions.

16. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;

b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;

c. The applicant shall not reside within 5 kms radius of the locality where the prosecutrix resides;

d. The applicant shall appear before the learned Trial

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Court as and when directed;

e. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;

f. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

17. In the event of there being any FIR/DD entry/complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

18. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

19. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

MAY 29, 2025
'KDK'

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