



2025:DHC:1719



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

Pronounced on: 18.03.2025

+ **BAIL APPLN. 3884/2024**

RINKI SONI

.....Petitioner

Through: Mr. Kishore Kumar Mishra and Mr.
Manish Khera, Advs.

versus

STATE OF NCT OF DELHI THROUGH SHORespondent

Through: Mr. Aman Usman, APP for State with
Insp. Ravinder Malik, SHO and S.I.
Narender Kumar, P.S. Sultan Puri,
Delhi.
Mr. Viplav Acharya, Adv. as *Amicus*
Curiae for the complainant.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J.

1. The present petition has been filed by the petitioner under Section 439 CrPC read with Section 483 BNSS seeking regular bail in connection with FIR No.480/2018 under Section 328/366A/370/372/376(2)/120B IPC r/w Section 4 of POCSO Act, at Police Station Sultanpuri.
2. The case of the prosecution as borne out from the FIR is that on 30.06.2018, Vikram (victim's father) submitted a complaint to PS Sultanpuri that his child went missing from her parental home and the same was recorded *vide* DD No. 44A attested by HC Kaptan Singh. An FIR No.480/2018 under Section 363 IPC was registered and the same was marked to IO/Assistant Sub Inspector Dharam Singh.



3. During investigation, on 21.07.2018, the victim along with her parents came to the police station and further investigation was entrusted to IO Inspector Mohinder Singh. The victim's statement was recorded under section 161 IPC. As per the statement, it is alleged that on the intervening night of 29/30.06.2018 accused Abhishek kidnapped the victim and took her to Haridwar. After 5-6 days in Haridwar, Abhishek brought her back to Delhi and met co-accused/Ravi. It is further alleged that co-accused Ravi raped the victim at his house in Ghaziabad, U.P. The next morning, she was left alone with the petitioner (wife of co-accused Ravi) who mixed intoxicating substance in her food.
4. Further it is alleged that on 10.07.2018, accused persons namely Ravi, Intzar, Heena and petitioner/Rinki took the victim to Sector 11 Rohini, Delhi on the false pretext to meet Abhishek and sold her for prostitution to co-accused Ashok (owner of the Spa) for Rs.2,00,000/-. As per the prosecution version, victim was raped by co-accused Ashok, as well as, other people at the Spa Centre. Subsequently, on 21.07.2018 she was able to escape.
5. During further course of investigation accused Abhishek, Ravi, Rinki Soni, Mohamed Sakil @ Vicky, Mukesh, Rohit and Ashok @ Rakesh Goyal, were arrested and two mobile phones were also recovered from the 'Spa Centre', which were used by co-accused Ashok @ Rakesh Goyal to make calls to the customers. On 08.09.2018 co-accused Sunil (who raped the victim at Ashok's Spa) was arrested on the identification of victim. Later, chargesheet was filed before the Ld. Trial Court on 26.10.2018.
6. Mr. Aditya Mishra learned counsel for the petitioner, at the outset submits that the petitioner has been falsely implicated in the present FIR. He



submits that the prosecution case is full of concocted stories as well as contradictory allegations.

7. The learned counsel for the petitioner submits that the statement of the victim recorded under Section 161 CrPC is contradictory to her statement under Section 164 CrPC. In her first statement under Section 161 CrPC, she had stated that co-accused Abhishek and Ravi, both physically molested her and later on in her statement under Section 164 CrPC, she states that except Abhishek rest of the accused persons tormented her. He submits that co-accused Abhishek was discharged by the Court on the basis of statement of the victim under Section 164 CrPC.

8. He further submits that with regard to the allegation against the present petitioner that she along with her husband had sold the victim for an amount of Rs. 2 lacs, however, no recovery of said amount or any part thereof could be made.

9. He further submits that other co-accused persons who are alleged to have committed the offence by assisting the petitioner in escorting the victim to the house of co-accused Ashok and other two co-accused performing the duty of guard at the said premises, have already been granted bail.

10. He submits that petitioner is in custody for over six years and the prosecution has cited as many as 26 witnesses and till date only 21 witnesses have been examined. According to the learned counsel, the trial is going to be a protracted one and under the facts and circumstances of the case, the petitioner may be enlarged on bail.

11. *Per contra*, the learned APP for the State has argued on the lines of the status report. He submits that specific role has been attributed to the



present petitioner, inasmuch as the petitioner along with other co-accused had sold the victim to co-accused Ashok for the purpose of prostitution. He submits that there is further specific allegation that the petitioner had mixed intoxicating substances in the food of the victim. He, thus, urges that the bail application of the petitioner be dismissed.

12. I have heard the learned counsel for the petitioner, as well as, the learned APP for the State and have perused the record.

13. It is the case of the prosecution that one Abhishek was part of the conspiracy in kidnapping the victim and he is the one who took the victim to Haridwar where the victim stayed with him for 5-6 days. Later on, Abhishek has been discharged by the learned Trial Court on the basis of the statement of victim recorded under Section 164 CrPC. Thus, there appears to be evident contradiction in the statement of the victim recorded under Section 161 CrPC with her statement recorded under Section 164 CrPC. However, this aspect of contradiction along with reliability of the witness will be considered by the learned Trial Court during the trial.

14. Even the testimony of the victim shows that she has attributed mixing of intoxicating substances in her meal to co-accused Ravi and not to the present petitioner.

15. Though the allegation against the present petitioner is that she along with other co-accused had sold the victim to co-accused Ashok, however, there is no recovery of any money made from the present petitioner.

16. The aforesaid factors tilt the balance in favour of the petitioner for grant bail to her regard being had to the fact that the custody of the petitioner is for 6 years 3 months approximately. Further, the prosecution has cited 26



witnesses, of which only 21 witnesses have been examined, therefore, the trial will inevitably take some time to conclude.

17. It is well settled that at the pre-conviction stage, there is presumption of innocence. The object of keeping a person in custody is to ensure his availability to face the trial and to receive the sentence that may be awarded to him. Detention is not supposed to be punitive or preventive. The petitioner who is facing incarceration for more than 06 years cannot be kept in custody for an indefinite period in the facts and circumstances of the present case to await the outcome of trial, which as noted above, is not likely to be concluded anytime soon. That apart, the petitioner is a woman and this Court is of the view that considering long custody of the petitioner, she can be extended the benefit of first proviso to Section 437(1) CrPC [akin to first proviso to Section 480(1) of BNSS] as well.

18. It is not the case of the prosecution in the status report that the petitioner is a flight risk. It is also not the case of the prosecution that the petitioner has a criminal record. There is also no possibility of the victim being influenced by the petitioner, in the event she is enlarged on bail, as the testimonies of the prosecutrix stands recorded. The presence of the petitioner during trial can otherwise be procured by imposing appropriate conditions.

19. Having regard to the aforesaid circumstances, this court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is admitted to regular bail subject to her furnishing a Personal Bond in the sum of Rs.25,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/JMFC/CMM/Duty Magistrate, further subject to the following conditions:



- (a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- (b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
- (c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses directly or indirectly.
20. The petition stands disposed of.
21. It is clarified that the observations made herein above are only for the limited purpose of deciding the present bail application and the same shall not be construed as an expression of opinion on merits of the case.
22. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.
23. Order *dasti* under signatures of the Court Master.
24. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

March 18, 2025/aj