

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

Reserved on : 11.02.2021

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Pronounced on : 17.02.2021

+ **BAIL APPLN. 4114/2020 and Crl.M. (Bail) 8482/2020**

VIKAS MITTAL

..... Petitioner

Through: Mr. Manu Sharma and Mr. Vaibhav
Tomar, Advocates.

versus

THE STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Ms. Neelam Sharma, APP for the
State with SI Suman Bajaj, AHTU
Crime Branch.

Mr. Badrinath Balasubramaniam and
Mr. Yash Chaturvedi, Advocates for
R-2.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. By way of this order, I shall dispose of the present bail application filed under Section 439 Cr.P.C. on behalf of the petitioner for grant of regular bail in case FIR No. 314/2020 registered under Section 376/328/354A/506/509/34 IPC at Police Station Dwarka South.

2. Briefly stated, the allegations against the petitioner are that on 05.08.2020, a PCR call regarding rape was received in Police Station and the above mentioned case was registered on the complaint of victim "V" aged about 28 years. In her complaint, she had levelled the allegations against the petitioner/accused for molestation & committing rape upon her in June 2017. She further disclosed that she had joined the Eldorado Events Company of petitioner in February, 2017. Petitioner used to take her in events meetings. One day in June 2017, petitioner called the victim at Sector-9, Dwarka Metro Station as they had to attend the meeting in Dwarka. On this, petitioner picked her up from Sector-9 Dwarka Metro Station in his car (later on the vehicle number i.e. UP14 CS 7289 was provided by the victim). Petitioner gave her adulterated water to drink and after consuming she started feeling dizzy. After that petitioner parked his car at an isolated place near Sector 9 Metro Station and committed rape with her at the back seat of his car. The same day petitioner also took her to Roseate House Hotel, Aerocity IGI Airport, New Delhi where he had already booked a room and again committed rape with her. The accused had earlier molested the victim at hotel Lineage in Lucknow in April 2017. She further alleged that on several occasions petitioner passed vulgar comments about her private parts and asked for sexual favours.

3. I have heard learned counsel for the petitioner, learned APP for the State and have perused the status reports filed by the State.

4. It is submitted by learned counsel for the petitioner that the bare perusal of the FIR would clearly show that it has been filed belatedly with the sole aim to involve the petitioner in a false and fabricated case. It is further submitted that the alleged incident took place in the month of June, 2017, but the present FIR has been registered only on 05.08.2020 and there is no explanation for such delay. He further submitted that the complaint is made by the victim/prosecutrix under legal advice which clearly shows that she is playing in the hands of somebody. It is further argued that there are glaring discrepancies in the statements of the complainant recorded under Section 161 Cr.P.C. and under Section 164 Cr.P.C. It is further submitted that the victim/prosecutrix has been filing false and frivolous complaints with regard to threats being extended to her at the instance of the petitioner. It is further submitted that the victim/prosecutrix has even not mentioned the correct dates of their alleged stay at Lineage Hotel, Lucknow, which further shows untruthfulness of the victim/prosecutrix. It is further submitted that the victim/prosecutrix had been reluctant to get herself medically examined and she even did not verify the place of occurrence of the alleged crime, but after much delay the victim got herself medically examined and verified the place of alleged crime. It is further submitted that the petitioner is suffering from severe medical condition of fibrosis which makes difficult for him to perform his daily chores. It is further stated that the accused is in Judicial Custody since 12.08.2020 and is not required for any investigation purpose. Charge sheet has already been filed.

5. Learned APP for the State has argued on the lines of his status report. It was argued by learned APP for the State with due assistance from learned counsel for the victim/prosecutrix that the allegations against the petitioner are serious in nature. He submitted that the case had been transferred to Crime Branch and there are threats to the life of the victim/prosecutrix. It is further argued that the petitioner had moved the second bail application before the Court of Sessions in which the wife of the petitioner has filed false documents of the victim, like fake affidavit and fake aadhar card in order to submit that the victim/prosecutrix does not want to proceed with the present case as the matter has been settled between the parties. It is argued that the petitioner was even declared absconder and in case he is released on bail, it will be very difficult to procure his presence. It is further argued that the victim had filed a complaint with regard to the use of her forged affidavit and aadhar card and FIR No. 529/2020 dated 23.11.2020 under Sections 468/471/193 IPC was registered against his wife, which is under investigation. It is further submitted by learned APP for the State that on 22.09.2020 the victim/prosecutrix again received threatening calls and the caller asked her not to pursue the court case. Learned APP further submits that on 24.09.2020, when the victim was waiting at Civil Lines Metro Station, someone caught her hand and again threatened her with dire consequences and in this regard FIR No. 397/2020 under Section 195A/506 IPC was registered. It is further submitted that the co-accused who had threatened the victim multiple times is yet to be identified and traced. He further submits that a case under Sections 307/120B/34 IPC vide FIR No.

239/2020 dated 18.10.2020 has been registered at Police Station Julana, District Jind, Haryana, against the petitioner and his unknown associates for attempt to murder of one Mr. Sumit Yadav, who is the witness in case FIR No. 397/2020 under Sections 195A/506 IPC registered at Police Station Civil Line. It is further argued that the investigation by the Crime Branch is still under progress and the mobile phone of the victim which contains recording of threats by the co-accused has been seized. Certified CAF and CDRs of the co-accused have been obtained and is being analysed and thereafter supplementary charge sheet will be filed after receipt of expert's opinion from FSL.

6. In the instant case after the dismissal of the first bail application of the petitioner on 18.08.2020, he moved another bail application for regular bail on 28.09.2020 and in order to obtain bail he filed a fake affidavit with forged signatures of the victim/prosecutrix and fake aadhar card and mentioned in the Court that the victim/prosecutrix does not want to proceed with the matter as the same has been settled between the petitioner and the victim/prosecutrix. When the victim/prosecutrix came to know about all this, she filed a complaint on the basis of which the FIR was registered against the wife of the petitioner. This shows the desperation of the petitioner to come out of the jail.

7. Record reveals that the victim/prosecutrix is being threatened time and again to not to pursue the case against the petitioner. It is pertinent to mention that FIR No. 239/2020 under Sections 307/120B/34 IPC read with

Sections 25/54/59 of the Arms Act had been registered at District Jind, Haryana, against the petitioner and his unknown associates for attempt to murder one, Mr. Sumit Yadav, who according to the petitioner is a witness in FIR No. 397/2020 under Section 195A/506 IPC registered at Police Station Civil Lines. The investigation in this case is still under progress and the mobile phone of the victim/complainant containing the recordings of threats by the co-accused has been seized by the police and sent to FSL. Certified CAF and CDRs of the co-accused have also been obtained and are being analyzed and expert's opinion from FSL is awaited.

8. Learned APP for the State had submitted that the supplementary charge sheet would be filed after investigation, which is now being carried out by the Crime Branch, is completed. The allegations against the accused are grave and serious in nature. No ground of bail is made out.

9. The petition is dismissed in the aforesaid terms.

RAJNISH BHATNAGAR, J

FEBRUARY 17, 2021

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