
(2018) 05 DEL CK 0353
In the Delhi High Court
Case No : BAIL APPLN. 995 OF 2018

SHOMESH KUMAR

APPELLANT

Vs

STATE (GOVT. OF NCT OF DELHI)

RESPONDENT

Date of Decision : 24-05-2018

Acts Referred:

Indian Penal Code, 1860 — Section 376, 506
Information Technology Act, 2000 — Section 67A

Citation : (2018) 05 DEL CK 0353

Hon'ble Judges : SANJEEV SACHDEVA

Bench : Single Bench

Advocate : A.K. Mishra, Neelam Sharma

Final Decision : Allowed

Judgement

SANJEEV SACHDEVA, J.

1. The petitioner seeks regular bail in FIR No. 93/2017 under Sections 376/506 of the IPC read with Section 67(A) of the Information Technology

Act, 2000, registered at Police Station Tughlak Road, New Delhi.

2. The allegations against the petitioner in the FIR are that the petitioner had come into contact with the prosecutrix in the year 2013 when she was

doing her engineering course. It is alleged in the FIR that one day, petitioner had called the prosecutrix on the pretext of some function at his house.

Petitioner offered her cold drink to drink and thereafter she became intoxicated and he committed the offence of rape on her. Thereafter when he

was confronted he promised to marry the prosecutrix. He is also alleged to have taken some obscene photographs of the prosecutrix. It is alleged that

the petitioner kept on sending her e-mails and WhatsApp messages and kept on threatening her. Thereafter, it is alleged that on 25.05.2016, the

petitioner sent SMS to the complainant calling her to meet him on 27.05.2016 at about 3.00 PM at Lodhi Garden. It is alleged that in the afternoon of

27.05.2016 he once again misbehaved with her and threatened her that he will upload her obscene photographs on the internet. The said FIR was

registered on a complaint made on 18.11.2017.

3. Learned counsel for the petitioner submits that there is an unexplained delay in registration of the FIR and further submitted that the petitioner has

been falsely implicated. He submits that on the very day of his arrest, the petitioner informed the IO that the allegations of complainant that petitioner

had met the complainant on 27.05.2016 is false as the petitioner at that time was attending his college in Punjab. The attendance into the college is

marked by way of Bio-metric machine and there is CCTV cameras installed in the college campus and its footage would confirm that the petitioner

was not present in Delhi on 27.05.2016 as alleged by the complainant.

4. Learned counsel for the petitioner further submits that there is nothing to substantiate that there was ever any threat extended to the prosecutrix.

He further submits that the petitioner has surrendered his mobile phone to the IO and has also given the password etc. to access the e-mail and

WhatsApp.

5. The petitioner has been in custody since 30.12.2017.

6. Without commenting on the merits of the case, perusal of the record shows that the petitioner has made out a case for grant of bail. Accordingly,

petitioner is directed to be released on bail on his furnishing a personal bond of Rs. 50,000/- with one surety of the like amount to the satisfaction of the

trial court, if not required in any other case. The petitioner shall not do anything which may prejudice either the investigation or the prosecution

witnesses. The petitioner shall not make any endeavour to contact the complainant or any of the prosecution witnesses. The petitioner shall not leave

the country without permission of the trial court. The petitioner shall furnish his permanent residential address to the IO.

7. Learned counsel for the petitioner submits that his permanent residential address is Gopal Ganj, Bihar. The petitioner shall also report to the

concerned SHO, Gopal Ganj, Bihar on 1st Saturday of every alternate month. In case there is any change in the residential address, he shall intimate

the IO and shall also furnish the details of his current residential address with the

IO so that the trial court may suitably modify the order and direct the petitioner to report to the concerned SHO of the changed address. The petitioner shall also appear before the concerned trial court as and when the matter is listed before the trial court.

8. The petition is allowed in the above terms.

9. Order Dasti under signatures of the Court Master.