

IN THE COURT OF MS. SHEFALI BARNALA TANDON  
ADDITIONAL SESSIONS JUDGE-05 : West : Delhi

Bail Application No. 2762/2024  
STATE Vs. RINKU  
FIR No.662/2024  
PS –PASCHIM VIHAR WEST  
U/s.64(1) BNS

25.07.2024

Undersigned is performing bail duty in pursuance to order No.821/20813-20842/Bail Power/Gaz./PDJ West/2024 dated 26.06.2024, partially modified by Ld. Principal District & Sessions Judge (West), THC, Delhi.

Present: Mr. Ankit Aggarwal, Ld. Substitute Addl. PP for the State.  
Sh. Ram Niwas, Father of the applicant/accused.  
Sh. Kartik Yadav, Ld. Counsel for the applicant/accused through VC.

1. Vide this order, the Court shall dispose of application under Section 483 Bhartiya Nagarik Suraksha Sanhita, 2023 filed on behalf of applicant/accused Rinku seeking regular bail, pending adjudication.

2. On 24.07.2024, upon enquiry, Ld. Counsel for the applicant/accused states at Bar that there is no other bail application of the present applicant/accused pending before the Hon'ble High Court of Delhi or Hon'ble Supreme Court of India.

**Arguments on behalf of the applicant/accused**

3. Arguments were heard yesterday, during which Ld. Counsel for the applicant/accused submitted that the applicant/accused has no role to play in the alleged incident and he

has been falsely implicated by the complainant/prosecutrix; that the complainant/prosecutrix joined the company of the applicant/accused on her own without any pressure and whatever had happened with them was purely consensual; that the complainant/prosecutrix went to the hotel with the applicant/accused out of her own will and submitted the copy of her Aadhar card at the reception of the hotel; that the applicant/accused belongs to a respectable family and he has clean antecedent. Therefore, he deserves to be enlarged on bail since he is in custody for almost 10 days without committing any offence, in view of the statement recorded of the prosecutrix u/s 183 BNSS.

**Arguments on behalf of State and prosecutrix**

4. During the course of the arguments, the prosecutrix herself stated that the no offence has been committed against her and she went to the hotel with the applicant/accused herself out of her free own will wherein sexual relations were made between them consensually, however, thereafter, there was some fight between them on some trivial issue and therefore, in fit of anger as well as under intoxication, she made complaint against the applicant/accused. She further stated that the said facts have been mentioned by her before the Ld. MM also which has been reduced in her statement recorded under Section 183 BNSS (earlier Section 164 Cr.PC) and now she wants that the applicant/accused shall be enlarged on bail since he has not committed any offence. On inquiry, she stated that she is 23 years of age and educated. She does not have any threat, pressure or influence from any corner to state the aforesaid and she is accompanied by her friend today in the Court, so there is no

question of any influence.

5. On inquiry, the investigating officer of the case SI Achla Rani has submitted that the PCR call was made by the friends of the complainant/ prosecutrix from/outside the hotel where she went with the applicant/ accused herself. Thereafter, the CCTV footage of the Hotel was checked and the complainant/ prosecutrix was seen going & coming out of the room/ hotel in a composed manner. However, she and her friends made a hue & cry when police reached at the spot to arrest the accused since heinous offence has been committed against her.

**Court observation**

6. This Court heard the arguments advanced on behalf of applicant/accused and prosecution. The material available on record including case dairy has been carefully.

7. As per record, the FIR was registered on 14/07/2024 u/s 64(1) BNSS on the basis of statement made by the complainant against the applicant/ accused for commission of offence of rape against her. However, the very next day ie. on 15/07/2024, she gave a statement to the Ld. JMFC recorded u/s 183 BNSS, wherein the prosecutrix has stated that she went to the hotel with the applicant/ accused without any force and on her own accord. Sexual relations were made between them with her consent. However, due to fight between them, she got irritated and made the call to police. She made allegations against the accused in fit of rage only.

8. The prosecutrix even stated the same before this Court during arguments as stated above in preceding paragraphs.

9. Among other offences as mentioned under criminal law,

the offence of rape is the most heinous and painful offence because the murderer destroys the physical frame i.e. body of the victim while the rapist destroys the very soul of the victim as well as her body. The legislature made the laws for protecting the people from wrongs but the same laws are misused by them. The Law has given the remedy of lodging a criminal complaint if a crime is committed against them but such a remedy should not be used as a tool to gratify the complainant's ulterior motive or to teach a lesson to the accused.

10. The men of our country have equal rights and protection under the Law as enshrined in the Constitution of India, however special privilege is given to the women. But this special privilege and woman protecting laws should not be made a sword to settle scores or to satisfy ulterior motives, which is going rampant in the society. Allegations of rape are made on drop of a hat, nowadays for many other reasons as observed by the Courts, day in and day out. This is one of such case in hand. False rape allegations not only destroy life of the man named but also reputation and social standing of his family members at large. Some might lose their jobs after this social stigma. Both man and woman are two pillars of the society and are equal in every aspect, therefore, one should not overpower the other only on the basis of gender misuse.

11. Therefore, this Court is constrained to direct for initiating appropriate legal action against the complainant/prosecutrix for making false complainant to the police against the applicant/accused only out of anger and in the state of intoxication, due to which the applicant/accused remained incarcerated for almost 10 days. Accordingly, copy of this order be sent to DCP concerned

today itself for necessary compliance with directions to file compliance report within 10 days before this Court.

12. The Police is also advised not to act in haste in arresting the accused person(s) in the cases where circumstances warrant some initial enquiry or investigation after writing due reasons as per law, since there cannot be any compensation sufficient to indemnify the innocent person for incarceration on the basis of false complainant.

**Conclusion**

13. With this background as discussed above, the present application for regular bail is allowed. It is directed **applicants/accused Rinku** shall be released on bail on his furnishing personal bond and one surety bond to the tune of **Rs.20,000/- (Rupees Twenty Thousand Only)**, to the satisfaction of **Ld. JMFC/Duty JMFC/Link JMFC**.

14. Nothing expressed herein shall tantamount to have any expression of opinion upon the merits of the case.

15. Copy of this order be given dasti to the IO as well as to the Ld. Counsel for the applicants/accused persons, as prayed.

16. The present application stands disposed of accordingly.

(Shefali Barnala Tandon)  
ASJ-05(W)/THC/Delhi/25.07.2024/gr