

Shujat Ali vs State & Anr on 19 December, 2023

Author: Rajnish Bhatnagar

Bench: Rajnish Bhatnagar

\$~9

*

+

IN THE HIGH COURT OF DELHI AT NEW DELHI
BAIL APPLN. 2964/2023
SHUJAT ALI

STATE & ANR.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR
ORDER

% 19.12.2023

1. The present petition has been filed under Section 439 Cr.P.C. by the petitioner seeking release on regular bail in FIR No. 0037/2021, under Sections 363/ 366A /372 /373 /370A /376 /313 /120B/34 IPC and Section 4/6/17 POCSO Act and Sections 3/4/5/6 of Immoral Traffic (Prevention) Act, registered at Police Station Jamia Nagar.

2. At the outset, it is submitted by learned counsel for the petitioner that petitioner has not been assigned any role and was not even named in the Statement of the victim recorded under Section 164 Cr.P.C. including the MLC. It is further submitted that victim was not a minor on the date of the incident i.e., 04.01.2021. It is further submitted that the house where the alleged rape took place does not This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 23/12/2023 at 00:30:08 belong to the petitioner rather it is registered in the name of co- accused Geeta. It is further submitted that petitioner is seeking parity with co-accused Geeta and Guriya who are on bail.

3. On the other hand, while vehemently opposing the present bail application, it is submitted by learned APP with the assistance of the counsel appearing for the victim that the allegations against the petitioner are grave and serious in nature. It is further submitted that victim was minor on the date of the incident. It is further submitted that victim has categorically stated that she was raped by 8 persons in a house bearing no. Flat No. 8, II Floor, Lalita Park, Laxmi Nagar, Delhi, which belongs

to co-accused Geeta, who is the wife of the present petitioner, therefore, the petitioner being a resident of that house was aware of as to what is happening in the house with the victim. It is further submitted that petitioner is not entitled to parity with the co-accused person as co-accused Geeta has been granted bail on the basis of medical condition and co-accused Guriya was granted bail keeping in view that she was having minor daughter aged around 2 years. It is further submitted that petitioner used to bring customers in his house and used to offer the victim to them.

4. In the instant case, the allegations against the petitioner are grave and serious in nature. It is pertinent to note here that the petitioner is the husband of co-accused Geeta who is stated to be the owner of the place where the alleged incident took place and as per the Statement recorded under Section 164 Cr.P.C., the victim was raped by 8 persons on the first date, i.e, 04.01.2021. A perusal of the Statement further reveals that the victim was raped by 40 more This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 23/12/2023 at 00:30:08 persons in the said house belonging to wife of the petitioner, so it is deemed that the petitioner has all the knowledge and at no point of time, he came to rescue the victim. Moreover, the petitioner is not entitled to parity with the co-accused as they were granted bail on humanitarian as well as the medical grounds. Furthermore, the victim is yet to be examined, the possibility of the petitioner influencing the victim cannot be rule out.

5. Therefore, in my opinion, looking into the allegations and nature of offence and also the fact that victim is yet to be examined, the petitioner has failed to make any ground for bail at this stage.

6. The bail application is dismissed accordingly.

RAJNISH BHATNAGAR, J DECEMBER 19, 2023 p This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 23/12/2023 at 00:30:09