



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc. III Bail No. 11022 / 2017

Om Prakash S/o Hardwari Lal Agarwal, Resident of 3/126, Shankar Colony, Sri Ganganagar. (Presently Lodged in Central Jail, Sri Ganganagar)

-----Petitioner

Versus

The State of Rajasthan Through Public Prosecutor.

-----Respondent

For Petitioner(s) : Mr. H.S.S. Kharlia, Senior Advocate, assisted by Mr. D.S. Thind

For Respondent(s) : Mr. Vikram Singh Rajpurohit, P.P.
Mr. S.R. Godara

HON'BLE MR. JUSTICE SANDEEP MEHTA

Order

12/12/2017

This third bail application under Section 439 CrPC has been preferred on behalf of accused applicant Om Prakash, who is in custody in relation to F.I.R. No.270/2016 registered at Police Station Mahila Thana, Sri Ganganagar for the offence under Section 376-D IPC.

Learned Senior Advocate Mr. H.S.S. Kharlia, assisted by Mr. D.S. Thind, representing the applicant, vehemently urged that after rejection of the earlier bail application filed by the applicant, the statement of prosecutrix Mst. 'M.' has been recorded by the trial court. He points out that there exist numerous infirmities, contradictions and exaggerations in the said statement. He drew pertinent attention of the court to the cross-examination of the prosecutrix conducted on behalf of the accused, wherein, the



prosecutrix admitted that she indulged in an illicit relationship with Devendra Gilhotra for about eight years and that she delivered a female child from his loins. The prosecutrix further admitted that she had filed numerous cases of sexual assault/rape against various persons, namely Devendra Gilholtra, Om Prakash, Harnek Singh Joshan, Mahendra Bagdi, Sanjay @ Sanju Raheja and also against the family members of Ajaypal and Bittu. A specific suggestion was given to the prosecutrix that the police found the cases registered by the prosecutrix against Ajaypal and Bittu's wife to be false. Mr. Kharlia pointed out that there is a significant contradiction in the story as set up by the prosecutrix regarding the date on which the petitioner allegedly subjected her to forcible sexual assault. He further urges that none of the so called indecent video clippings were recovered by the Investigating Officer during investigation. It is also pointed out that the call details collected by the Investigating Officer during investigation indicate that the prosecutrix and the petitioner were in touch with each other on no less than 300 occasions between the months of January 2016 and June 2016. He urges that the allegations made by the prosecutrix against the petitioner are false on the face of record and it is apparent that she is in habit of extorting money after launching false cases of rape against various persons. On these grounds, he implored the court to accept the instant bail application and enlarge the petitioner on bail.

Per contra, learned Public Prosecutor and Mr. S.R. Godara, learned counsel representing the complainant, vehemently opposed the submissions advanced by the petitioner's



counsel and contended that there is a specific allegation of the prosecutrix that the petitioner exploited her sexually over a long period of time under the pretext of giving her a loan. However, they could not dispute the fact that the prosecutrix has lodged numerous cases of rape against various persons, one of them being Devendra Gilhotra. In her cross-examination, she admitted during her subsisting marriage, she established sexual relations with said Devendra Gilhotra for a period of eight years and even gave birth to a female child from his loins.

In this background, the argument advanced by Mr. Kharlia that the prosecutrix is in habit of extorting money by lodging cases of rape is not without merit. However, any comment by this court on the veracity of the statement of the prosecutrix may adversely affect the trial.

Having regard to the entirety of facts and circumstances as emanating from record and considering the aspect that the petitioner is in custody since 29.03.2017 and as till date, the two co-accused, namely Harnek Singh and Mahendra, against whom also the prosecutrix has levelled allegations of gangrape alongwith the present petitioner have not been charge-sheeted by the police, this Court is of the opinion that the petitioner deserves to be enlarged on bail.

Consequently, the instant third bail application is hereby allowed. It is ordered that the accused-petitioner namely Om Prakash S/o Hardwari Lal Agarwal arrested in connection with F.I.R. No.270/2016 registered at Police Station Mahila Thana, Sri Ganganagar shall be released on bail; provided he furnishes a



personal bond of Rs.50,000/- and two surety bonds of Rs.25,000/- each to the satisfaction of the learned trial court with the stipulation to appear before that Court on all dates of hearing and as and when called upon to do so.

(SANDEEP MEHTA), J.



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RAJASTHAN HIGH COURT



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