

(VIA VIDEO CONFERENCING)

\$~3

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

+ **BAIL APPLN. 2279/2021**

AJAY KUMAR

..... Petitioner

Through: Mr. Vivek Sharma, Adv.

versus

THE STATE

..... Respondent

Through: Ms. Rajni Gupta, APP with SI
Arvind.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

%

31.08.2021

1. This is a petition filed by the petitioner under Section 438 Cr. P.C seeking anticipatory bail in case FIR No. 113/2021 under Sections 363/354-B/366/376/109 IPC and Section 6/17/21 of the POCSO Act registered at P.S.Dayalpur, Delhi.
2. In brief, the facts of the case are that the present case was registered in P.S.Dayalpur on 5.3.2021 on the complaint of the victim's father. The victim was kidnapped by accused Jitender Pal and he took the victim in hotel Himachal Tourist Centre, Nizamuddin Delhi on 2.3.2021 where he raped her a number of times.
3. It is submitted by the counsel for the petitioner that petitioner has joined the investigation, and has co-operated in the same. It is further submitted that he has handed over the hotel register, in which entries are made with regard to the persons who stayed in the hotel. It is further submitted that hotel of the petitioner is located at Bhogal and not at

(VIA VIDEO CONFERENCING)

Nizammuddin as stated by the victim. It is further submitted by the counsel for the petitioner that petitioner is the owner of the hotel and he has no role to play in bookings which are being done by the hotel staff.

4. On the other hand, it is submitted by learned APP that the victim has correctly identified the hotel and on her identification the co-accused was arrested. It is further submitted by learned APP that the petitioner lives at the address i.e E-83, Mathura Road, Delhi, which is also the address of the hotel in question where, according to the victim, she was raped by the accused. It is further submitted by learned APP that the petitioner in the memo of parties as well as in the affidavit filed by him in Court stated that he is residing at E-83, Mathura Road, Delhi, so the petitioner cannot say that he was not aware as to what was going on in the hotel. It is further submitted by learned APP that the petitioner has been running this hotel for such like purpose where the incident took place and that too without having any license.

5. In the instant case, the victim 'X' is a girl aged around 16 years, and according to the victim she was kept in the hotel for about 4 days where she was repeatedly raped by the accused Jitender Pal. The petitioner, who is the owner of the hotel resides at the same place, and he cannot say that he was not aware as to what was going on in his hotel and he cannot put the entire blame on the staff of the hotel. First of all, the hotel was being run by the petitioner without any valid license and no record of the guests was being maintained and no IDs were being taken. Had ID of the victim and the accused Jitender Pal would have been taken at the time of said booking then the minor girl would have been saved from rape. By running this type of hotel and without keeping a record of the guests staying in the hotel, the

(VIA VIDEO CONFERENCING)

petitioner is facilitating in crime and prosecutrix is one such victim in this case. The testimony of the victim is yet to be recorded. So looking into the allegations and the seriousness of the offence, and the role played by the petitioner, no ground for bail is made out. The bail application is therefore dismissed.

6. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case.

RAJNISH BHATNAGAR, J

AUGUST 31, 2021

ib