

SC No. 310/2017
FIR No. 100/2017
PS Naraina
State v. Mohd. Kashif

16.10.2017

Present: Sh. Kamal Akhtar, Ld. Addl. PP for the State.

Accused produced from JC.

Sh. Suresh Sisodia, Ld. Counsel for accused.

Today Ld. Counsel Sh. Sisodia has advanced arguments on his application for bail and on the framing of charges. His only contention is that the prosecutrix had not narrated the incident to the Doctor at BLK Hospital and that she had also not named the accused in her statement U/s. 164 Cr.P.C. I have perused the file. As per the allegation made in the charge-sheet the prosecutrix is a young girl of 19 years old and the daughter of a labourer and she was gang raped by the accused alongwith on "MR" S/o. Sh. Maruf (who is a juvenile and is facing trial before the JJB) at a construction site and since she was bleeding profusely, she was first taken to BLK Hospital and thereafter referred to Lady Harding Hospital. In such a situation, the mere fact that she did not narrate about the incident to the doctor at BLK Hospital is hardly relevant.

As regards the naming of accused in her statement U/s. 164 Cr.P.C., the prosecutrix has categorically stated therein that she does not know the names of the accused persons though she has given a physical description of the accused. Further the accused persons were later on arrested on her identification only. In view of such facts, in the considered opinion of this court, no grounds for bail are made out looking into the gravity of the offence committed. The bail application, therefore, stands dismissed. Further, in view of the statement of the prosecutrix and other material on record, the accused is liable to be charged for having committed the offence punishable U/s. 376D IPC. Hence, charges have been framed separately to which the accused pleads not guilty and claims trial.

Let the prosecutrix be summoned through IO for **24.11.2017**. It is made clear that if the evidence of the prosecutrix is not concluded on the said date, it will be continued for **25.11.2017**.

(Anu Grover Baliga)
ASJ/FTC/Court No.7/PHC
Lockup Building/16.10.2017