

Bail Matter 3462-2022
State Vs. Nitish @ Dhairya
FIR No. 665/2022
PS Vijay Vihar
U/s 376(2)(m)/506/384 IPC

29.11.2022

Present: Dr. Raj Rani, Ld. substitute Addl. PP for the State.
Sh. Mithilesh Kumar Yadav, Ld. Counsel for
applicant/accused.

***This is 3rd application under Section 439 Cr.P.C.
for grant of regular bail, moved on behalf of applicant/accused
Nithish @ Dhairya.***

Reply to application received from IO.

As per the case of the prosecution, prosecutrix/victim is a married woman having a female issue and one and a half year ago she was at parental home at Vijay Vihar, Delhi. One day when she was strolling in a park near her house, applicant/accused came to her and started talking with her. Their contact numbers were also exchanged and they started talking on mobile phone. Applicant/accused used to use vulgar language while talking with her. One day accused on pretext of taking juice made her drunk some intoxicated substance in juice and committed rape upon her, also captured her objectionable photographs and videos. Accused threatened the victim to viral her objectionable photographs and videos on social media and on that pretext accused used to commit rape with her. It is further alleged that on 27.06.2022 and on 26.07.2022 she was compelled by accused to come to Delhi and accused committed rape on victim on 26.07.2022 by putting the victim under threat that he

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will make her objectionable videos and photographs viral and on 26.07.2022 she was sexually exploited.

It is argued by the Ld. Counsel for the applicant/accused that he has been falsely implicated in this case. It is argued that he is in JC since 24.09.2022 and he is not required for further investigation in any manner. It is stated that although, his earlier application for bail was dismissed on 10.10.2022 & 17.11.2022, the entire family is dependent upon him.

Per contra, Ld. Addl. PP for the State has opposed this application.

At the outset, it may be said that it is the third application of the applicant/accused u/s.439 Cr.P.C. The first application u/s. 439 Cr.P.C. was dismissed by the Court of Sessions, vide orders dated 10.10.2022 & 17.11.2022 with detailed orders. Orders on the said applications are on merit. Since then, there is no change of any circumstance, except that the period of incarceration has increased for about 12 days. Nothing has been shown or placed on record to show that there is any change of circumstance since the dismissal of the earlier bail applications. Entertaining this application, without any change of circumstance, is not warranted.

Even otherwise, the allegations are serious in nature. There is material to show that the applicant/accused committed rape upon victim time and again by putting her under threat of making her photos and videos viral on social media.

In totality of the facts and circumstances, it is not a fit case for grant of bail and hence, this application has no merit

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and the same is dismissed.

The application stands disposed of accordingly.

Copy dasti.

**(Vikram)
ASJ-02/Spl. Judge (NDPS),
North West, Rohini Courts,
Delhi/29.11.2022**