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

+ CRL.A. 713/2017, Crl. M. (Bail) No. 1323/2017 (Suspension of Sentence)

ASHWINI AGGARWAL

..... Appellant

Through: Ms. Geeta Luthra, Senior Advocate
with Ms. Shivani Luthra Lohiya,
Ms.Parul Sharma, Advocates

versus

THE STATE

..... Respondent

Through: Mr. Rajat Katyal, Additional Public
Prosecutor for the State
Ms. Aishwarya Rao, Advocate for the
complainant.

+ CRL.A. 721/2017
LAKHVINDER SINGH @ BITTU

..... Appellant

Through: Ms. Geeta Luthra, Senior Advocate
with Ms. Shivani Luthra Lohiya,
Ms.Parul Sharma, Advocates

versus

STATE

..... Respondent

Through: Mr. Rajat Katyal, Additional Public
Prosecutor for the State
Ms. Aishwarya Rao, Advocate for the
complainant.



+ CRL.A. 722/2017, Crl. M. (Bail) No. 1332/2017 & 1340/2017
(Suspension of Sentence)
KIRAN AGGARWAL & ANR Appellant
Through: Ms. Geeta Luthra, Senior Advocate
with Ms. Shivani Luthra Lohiya,
Ms.Parul Sharma, Advocates
versus
STATE Respondent
Through: Mr. Rajat Katyal, Additional Public
Prosecutor for the State
Ms. Aishwarya Rao, Advocate for the
complainant.

+ CRL.A. 725/2017, Crl. M. (Bail) No. 1335-1336/2017 (Suspension of
Sentence)
RAJEEV GUPTA & ORS Appellant
Through: Ms. Geeta Luthra, Senior Advocate
with Ms. Shivani Luthra Lohiya,
Ms.Parul Sharma, Advocates
versus
THE STATE Respondent
Through: Mr. Rajat Katyal, Additional Public
Prosecutor for the State
Ms. Aishwarya Rao, Advocate for the
complainant.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE P.S.TEJI

ORDER
27.11.2017
% Crl. M. (Bail) No. 1332/2017, 1335/2017, 1336/2017 and 1340/2017
(Suspension of sentence).

The aforesaid applications have been preferred by the appellants – Kiran Aggarwal, Puja, Mona and Mamta respectively to seek suspension of their sentence during the pendency of their respective appeals.



The aforesaid appellants, alongwith other co-accused stand convicted in case FIR No. 556/2006 at Police Station Tilak Nagar, Delhi under Section 376(2)(g) read with Section 109 of IPC.

The submission of Ms. Luthra, learned Senior Counsel for the appellants is that all the aforesaid appellants are females, and have been convicted by invoking section 109 of IPC. Ms. Luthra submits that during the pendency of trial they were all released on bail, and they never misused the same. She further submits that the trial court had disbelieved the defence put up by the appellants and other accused of false implication by the prosecutrix under the influence of Baba Satinder Nath on the premise that the accused had not examined any witness or lead any evidence to establish the same. Ms. Luthra submits that this court has allowed the applications preferred under Section 391 Cr.P.C. to enable the appellants to lead additional evidence in their defence before the trial court-to establish that the prosecutrix was under the influence of Baba Satinder Nath, and the case was cooked up against the accused persons only to take revenge from them on account of the fact that they all had disputes with the said Baba Satinder Nath in relation to usurpation of properties by him, by misleading the accused.

Ms. Luthra further submits that though the prosecutrix had claimed that the appellants had dragged the prosecutrix; disrobed her, and; made videograph and had taken the photographs while the prosecutrix was being raped by the male accused, no evidence in this regard was lead by the prosecution. She has also referred to certain



documents which were filed with the Closure Report, to submit that they probablise the plea of alibi set up by some of the appellants namely, Mamta and Puja. Ms. Luthra submits that since these documents were filed by the prosecution alongwith the closure report, the appellants can rely upon the same for the present purpose.

On the other hand, Mr. Rajat Katyal, Additional Public Prosecutor for the State submits that the prosecutrix has ascribed specific roles played by each of the aforesaid appellants in the commission of crime. He further submits that the accused had not lead any evidence in relation to their plea of alibi and the motive for false implication. He further submits that the appellants, if granted bail at this stage, may tamper with the evidence and influence the witnesses who are sought to be examined under Section 391 of Cr.P.C.

We have considered the rival submissions of learned counsels. The appellants are all women and they were on bail during the course of the trial. There is no evidence on record to suggest that they misused the bail granted to them, or sought to influence the witnesses or tamper with the evidence.

On a crucial aspect, this court has already allowed the application preferred by the accused under Section 391 of Cr.P.C. The documents sought to be relied upon by two of the appellants herein, viz. Mamta and Puja also need examination. In these circumstances, we are inclined to allow all these applications.

The sentence of the aforesaid appellants shall remain suspended



during the pendency of the appeal and they are directed to be released on bail upon furnishing their respective bail bonds in the sum of Rs.50,000/- each with one surety of the like amount to the satisfaction of the Trial Court. They shall not contact the complainant or any other witness, or tamper with the evidence. At the time of their release, all the applicants/appellants shall provide their mobile phone numbers, which shall not be changed without prior intimation to the court and Investigating Officer, and shall be kept in working condition till the disposal of the appeal.

The applications stand disposed of.

A copy of this order be given dasti under signatures of the court master to counsel for the applicants/appellants.

Crl. M. (Bail) No. 1323/2017, 1331/2017, 1334/2017 (Suspension of sentence).

All these applications shall be taken up for consideration, after the report is received from the trial court with regard to the additional evidence recorded by it.

VIPIN SANGHI, J

P.S. TEJI, J

NOVEMBER 27, 2017
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