

S U P R E M E C O U R T O F
R E C O R D O F P R O C E E D I N G S

I N D I A

Petition(s) for Special Leave to Appeal (Crl.) No(s). 26
96/2016

(Arising out of impugned final judgment and order dated 01/03/2016
in BA No. 2280/2014 passed by the High Court Of Delhi At New Delhi)

RAM PHAL Petitione
r(s)

VERSUS

STATE (NCT OF DELHI) Responde
t(s)

(with interim relief and office report)

Date : 02/05/2016 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE R.K. AGRAWAL

For Petitioner(s) Mr. Amarjit Singh Bedi, Adv.
Mr. Varun Chandiook, Adv.
Mr. Sidhant Gautam, Adv.
Mr. Paurish Kumar, Adv.

For Respondent(s) Mr. R.K. Rathore, Adv.
Mr. D.S. Mehra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Petitioner had filed an application for anticipatory bail

in the High Court in which order dated 16.10.2014
was passed

granting interim protection while issuing notice in
the said

application. From the perusal of the said order, it gets revealed

that the High Court considered the fact that in the first version

that was given by the complainant on 29.9.2014, there
was no

Signature Not Verified

allegation of rape. No such allegation was made by the complainant

Digitally signed by

ASHWANI KUMAR

Date: 2016.05.03

16:11:38 IST

Reason:

even in her statement recorded under Section 164 of the Code of

Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.').

Her MLC noted no bruises or any other kind of external injury. However, thereafter when the matter came up for final hearing on March 1, 2016, the High Court has finally dismissed the petition for anticipatory bail with the observation that in her statement on 29.09.2014 under Section 164 Cr.P.C., the complainant had leveled the allegations of commission of rape. In fact, this observation of the High Court is contrary to the record inasmuch as there is no allegation of rape in her statement under Section 164 Cr.P.C.

At the same time, we find that in her statement under Section 164 Cr.P.C., she categorically stated as follows:

"I used to beg in Kalkaji Mandir since 5 years. About 12.00 PM yesterday night line was already made since morning, there was some crowd and temple gates were closing. I slept in front of No. 7 Dharamshala. The Dharamshala person has told to me that you do not sleep here as our persons have visited here. He brought me inside the Dharmshala after holding hand and show me the place where I have to sleep. I put carpet and sleep along with my daughter. I as on fast then I got sleep. After some time I felt someone's hand and putting up my paticot and Sari. I clutch the hand and I woke up. I asked that what you are doing then he said nothing. I recognized the voice that the voice is same as the Dharamshala person."

In view thereof, we are not inclined to grant anticipatory bail. At the same time, if the petitioner surrenders and then moves an application for regular bail, the same shall be considered forthwith, in accordance with law.

The Special Leave Petition is dismissed.

Interlocutory application(s) pending, if any, shall stand

disposed of accordingly.

(Ashwani Thakur)
COURT MASTER

(Tapan Kr. Chakraborty)
COURT MASTER