

**Om Kishan @ Ommi Vs. the State**

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**SooperKanoon Citation :** [sooperkanoon.com/693102](http://sooperkanoon.com/693102)

**Court :** Delhi

**Decided On :** Mar-19-2005

**Reported in :** 118(2005)DLT673; 2005(81)DRJ742

**Judge :** Badar Durrez Ahmed, J.

**Acts :** Indian Penal Code (IPC) - Sections 34, 342, 366, 376 and 511

**Appeal No. :** Bail Appln 361/2005

**Appellant :** Om Kishan @ Ommi

**Respondent :** The State

**Advocate for Def. :** M.N. Dudeja, Adv.

**Advocate for Pet/Ap. :** R.M. Tufail and; Jyoti Singh, Advs

**Judgement :**

**Badar Durrez Ahmed, J.**

1. On 07.03.2005 when this matter was argued, the following order was passed:-

'The learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. He further submits that it is alleged that the petitioner had placed a revolver on the prosecutrix's head and pushed her into the room where the co-accused, Manoj is said to have committed rape on her. However, the

counsel for the petitioner submits that had this been the truth, there was no occasion for the petitioner to have called the Police Control Room and given the information that the accused Manoj and the prosecutrix were available in that particular place. The learned counsel for the petitioner has pointed to page 13 of the paper book which is a copy of the 'customer outgoing call details' of a Reliance Infocom telephone to show that on 03.02.2005 at 12.48 p.m. a call was made to the Police Control Room having a duration of 1 minute 46 seconds. The learned counsel for the State seeks time to verify whether such a call was received at the Police Control Room and what was the nature of the call.

List on 19.03.2005.'

2. The learned counsel for the State has verified and submits that it is a fact that from the Reliance Infocom telephone belonging to the petitioner a call was made on 03.02.2005 around 12.48 p.m. to the Police Control Room as well as to the Police Station Ashok Vihar whereby the relative D.D. Entry discloses that the petitioner had, in fact, called the police officers that he has kept captive a girl and a boy when the boy was in the process of running away with the girl. On this report, the police officers went to the address and apprehended the co-accused Manoj as well as the prosecutrix.

3. The learned counsel for the petitioner, as indicated in the aforesaid extract of the order, reiterated that had the petitioner been guilty of having committed any offence, he would not have called the police, particularly in view of the fact that the boy happens to be his brother-in-law (his wife Sanju's brother). The learned counsel for the petitioner further submitted that the petitioner's name does not at all figure in the FIR nor does it figure in the Section 161 Cr.P.C. statement made by the prosecutrix. He also submitted that the Section 161 statement which is recorded in the police records is on the basis of a hand written statement given by the prosecutrix herself in her own hand. He further submits that the other co-accused, i.e., Manoj's sister Sanju and brother Virender had the benefit of anticipatory bail. The orders in respect of them have been placed at pages 14 & 15 of the paper book.

4. The learned counsel for the State opposed the grant of bail on the ground that a heinous crime has been committed and that in the Section 164 Cr.P.C. statement made by the prosecutrix a specific role has been ascribed to the present petitioner.

5. Having heard the learned counsel for the parties and examined the facts of the case, it appears that the petitioner is entitled to bail. This is so particularly because his wife Sanju (sister of the main accused Manoj) and the brother-in-law (Virender) have also been granted anticipatory bail. Furthermore, the petitioner was the person who made the call to the police informing them about the presence of Manoj and the prosecutrix as a result of which Manoj came to be apprehended.

6. Accordingly, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs.20,000/- with one surety of the like amount to the satisfaction of the concerned court.

The application stands disposed of.

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