

Sanjay Sharma Vs. State

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Court : Delhi

Decided On : Mar-01-1995

Reported in : 1995(32)DRJ725

Judge : Mohd. Shamim, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 438

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 525 of 1995

Appellant : Sanjay Sharma

Respondent : State

Advocate for Pet/Ap. : D.C. Mathur,; Akshay Bipin,; R.D. Jolly and;

Judgement :

Mohd. Shamim, J.

(1) This is an application by the petitioner under Section 438 of the Cr.P.C. for release on bail in anticipation of his arrest.

(2) Learned counsel for the petitioner, Mr. Mathur, has contended that the petitioner is innocent. He has been falsely implicated in the present case. He is a lawyer by profession. In case he is not released on anticipatory bail his work would suffer further which is already suffering. The prosecutrix Smt. Kamla in her

statement under Section 164 Cr.P.C, has completely exonerated the petitioner inasmuch as she has stated therein that she was having sexual intercourse with the petitioner out of her own free will, without any pressure and coercion. The learned counsel thus contends that in view of the above the petitioner is entitled to an order of bail.

(3) Mr. R. D.Jolly, learned Pp for the State, on the other hand, has vehemently opposed the bail application. According to him, the statement under Section 164 Cr.P.C. was made under threat which is being extended to the prosecutrix continuously. The learned Pp has in this connection led me through the D.Ds dated January 4,1995, January 9,1995, January 12,1995, January 23,1995 and January 24,1995. The learned Pp has further contended that the petitioner has been threatening the prosecutrix and her family members on telephone also that in case the prosecutrix and her family members do not enter into a compromise he would kill the son of the prosecutrix and her husband Om Prakash. The learned Pp has in this connection led me through the statement of the son of the prosecutrix Abhishek dated January 12,1995 with regard to the threat. He has further led me through the statement of one Sat Prakash, a neighbour, in regard to the threat dated January 12,1995.

(4) The case of the prosecution as adumbrated through the F.I.R. is that the petitioner was a tenant in the house of the prosecutrix. He gave to her certain sweets which contained intoxicating material. After having consumed the same- she fell unconscious. While she was unconscious the petitioner took the advantage and committed rape on her. While she was being raped she was photographed. Later on the said photographs were used for blackmailing the prosecutrix to enable the petitioner to have sex with her.

(5) The learned Pp has shown me the said photographs also. A glance at the said photographs prima facie reveals that the prosecutrix is in no way a consenting party to the said sexual intercourse.

(6) Considering the above facts and circumstances I do not think present case is a fit case for grant of anticipatory bail. I do not see any force in the present petition. Dismissed.

