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

+ **BAIL. APPLN. 234/2017**

RAJKUMAR THAKUR

.....Petitioner

Through: Mr. S.R. Kamat, Advocate.

Versus

STATE

....Respondent

Through: Mr. Akshai Malik, APP for the State

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

% **31.08.2017**

1. By this present application filed under Section 439 of Cr. P.C., the petitioner is seeking **grant of regular bail** in FIR No. 287/2016 under Sections 354/370/34 of the Indian Penal Code & Section 8 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as 'POCSO') registered at Police Station Punjabi Bagh. The petitioner is stated to be in jail since 08.04.2016.
2. The facts of the case are that on 08.04.16 complainant Isklina Kumari arrived at Police Station Punjabi Bagh along with NGO member/Prabha Muni alleging that in February 2013, the petitioner brought the complainant from Assam to his home in Delhi on the pretext of giving her work where she was kept for 2-3 days. Further she stated that she was exploited sexually when she was alone in the house and then sent for employment to Gurgaon for 2 years where she was not given her wages and her entire payment was withheld by the petitioner and his friend.

5

3. Mr. S.R. Kamat, learned counsel for the petitioner argued that the petitioner is innocent and has no concern with the alleged offences against him and has been falsely implicated by the police officials of P.S. Punjabi Bagh. He added that the petitioner is the only bread earner of his family.

4. He further submitted that the prosecution has completely failed to explain as to how offence under Section 370 IPC has been committed by the petitioner as the residence of petitioner is in Delhi and the allegation of trafficking of the complainant is from Assam to Delhi. He also stated that the petitioner shall not tamper the investigation if he is granted bail and is also ready to furnish a sound surety as per the satisfaction of the Hon'ble Court.

5. On the converse, Mr. Akshai Malik, learned Additional Public Prosecutor appearing for the State has strongly opposed this bail application and submitted that the accused/petitioner is alleged to have trafficked a minor girl from Assam and has also monetary & sexually harassed her. He further submitted that the allegations leveled against the petitioner are grave and serious in nature and should not be entitled for grant of bail as he may also tamper with the prosecution.

6. The submissions of learned counsel appearing on behalf of the petitioner as well as the submissions of learned Additional Public Prosecutor have been heard and the material placed on record has also been perused.

7. The attention of this Court was drawn to the orders dated 31.04.2016, 31.08.2016 and 20.10.2016, whereby the earlier bail applications filed by the petitioner were dismissed.

6

8. On perusal of the record as well as the status report it is clear that categorical allegation is made against the accused/petitioner that he allegedly trafficked the complainant from Assam and further along with other two co-accused monetarily and physically assaulted the complainant/respondent for more than 2 years. The same can be inferred from the surrounding circumstances and the statements made by the prosecutrix under Section 161 and 164 Cr.P.C. The allegations under Section 354/354A/370(4)/34 of IPC and 8 POCSO Act against the petitioner are very serious and grave in nature. For the conditions relating to grant or refusal of bail, the apex court in *Kalyan Chandra Sarkar v. Rajesh Ranjan* reported in (2004) 7 SCC 528, has held as:

"11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

- a. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.*
- b. Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.*
- c. Prima facie satisfaction of the court in support of the charge.*

9. Taking into consideration the aforesaid observations, facts and circumstances that before granting bail, the nature of accusation and the severity of punishment in case of conviction are to be considered, I am of the view that no ground for granting bail is made out. Accordingly, the present application filed by the petitioner is dismissed.

10. Before parting with the above order, it is made clear that anything

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observed in the present petition shall not have any bearing on the merits of the case during trial.

11. Accordingly, the petition stands disposed of


SANGITA DHINGRA SEHGAL, J.

AUGUST 31, 2017

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