

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

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Reserved on : 6<sup>th</sup> September, 2018

Decided on: 13<sup>th</sup> September, 2018

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**BAIL APPLN. 794/2018**

RAJESH AGGARWAL

..... Petitioner

Represented by: Mr. Sudhir Nandrajog, Senior Advocate with Mr. C. Mohan Rao, Ms. Swati Aggarwal and Mr. Lokesh Kumar Sharma, Advocates.

versus

STATE

..... Respondent

Represented by: Ms. Meenakshi Chauhan, APP with SI Rachna, PS S. Mandi. Mr. Abhay Kumar, Mr. Vineet Kumar Singh, Mr. Himanshu Pal Singh and Mr. Saurabh Mishra, Advocates.

**CORAM:**

**HON'BLE MS. JUSTICE MUKTA GUPTA**

1. By this petition the petitioner seeks bail in case FIR No.120/2017 for offences punishable under Sections 376/354/354-A/354B/506 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 registered at P.S. Subzi Mandi.

2. Learned Senior Counsel for the petitioner submits that the petitioner is a father of the two alleged victim girls who have given their statements being under absolute and total control of Baba Mahant Sunder Dass, a self styled Godman. Learned Senior Counsel for the petitioner states that the petitioner and his family including the first wife from whom the two victim girls were born, his mother and even the second wife were all followers of

the Baba, however, after the petitioner started taking action against the Baba and the FIR was got registered by the second wife of the petitioner against the said Baba and his persons, as a counter-blast the above noted FIR was registered on 20<sup>th</sup> May, 2017 for purported allegations leveled up to the year 2013. Admittedly, even as per the case of the complainant and various complaints filed by them to the different authorities against the petitioner, the two victim girls along with their grandmother had vacated the house on 20<sup>th</sup> April, 2016 and thus the petitioner and the victims were residing together only till then. However, the FIR was got registered on 20<sup>th</sup> May, 2017. Learned Senior Counsel for the petitioner has taken this Court through the various documents which will be referred to in the later part of the order.

3. In the above noted FIR the two victims stated that their mother died on 16<sup>th</sup> January, 2009 when the elder one was 15 years old. Thereafter, their father insisted and pressurized the elder one to sleep with him as he felt lonely and while sleeping with her, he would touch her various body parts and intentionally used to touch his male organ and rub against her back while sleeping. Despite their grandmother warning him not to sleep with young daughter, their father emotionally blackmailed her and she had to comply with his demands. He compelled both of them to kiss him and touch various parts of his body. It is alleged that in the month of July, 2009 their grandmother went to Jodhpur to participate in a Satsang for two months. In August, 2009, the younger victim had vaginal infection due to humid weather and required to see a gynaecologist when their father forced them to let him see and examine her vagina. He even inserted his middle finger inside the younger one's vagina who cried in pain. It is alleged that on 18<sup>th</sup>

January, 2010, at night when the elder one was sleeping with her sister and grandmother, her father came into the room, woke her up and took her to his room. He took off her clothes and asked her to sleep with him as he was in tension due to memory of their mother. She took it lightly and slept on the bed as per his demand. He continued watching porn videos on the laptop and after two hours he tightly held her and started kissing her. He removed his undergarments and physically assaulted her. The allegations of the complainant on few more dates with regard to physical assault including insertion in the vagina have also been noted in the FIR in question. It is further alleged that on 16<sup>th</sup> May, 2012, their father appeared in the house along with one lady namely Neetu and stated that he had solemnized second marriage with her. They all accepted the decision due to their livelihood however, immediately after the marriage, the stepmother started to malign their reputation. Further, even her male friends used to visit their house when their father was at the restaurant on work. When they complained to their father instead of listening to them he fumed on them and asked them not to interfere in his personal life. They came to know that their stepmother had an evil eye on their money and expected all new things for herself after her marriage which was not possible for her grandmother to afford due to which arguments took place. In the month of September, 2012 the stepmother assaulted the younger one with a leather belt and when they complained to their father, he also slapped her. It is alleged that the male friends of their stepmother inappropriately touched the younger one and when she screamed, her stepmother stated that since their mother had expired, no one would save them. It is finally alleged that the male friend of her stepmother tried to sexually assault her by trying to touch his male

organ with her private part and when the elder one complained to her stepmother, she became more violent. They stated that they did not lodge the complaint as they feared for their life. However, now they want to take legal action against their father and the stepmother. On the said complaint, copies whereof were sent to all concerned, above noted FIR was registered on the same day i.e. 20<sup>th</sup> May, 2017.

4. Petitioner has placed on record certain documents to show that after having come to know the illegal activities of the Baba, the petitioner got published a pamphlet disclosing some facts which resulted in the lash back through the close relatives of the petitioner i.e. his mother and daughters. The petitioner was physically attacked on 23<sup>rd</sup> February, 2015 in which regard he filed a complaint at PS Subzi Mandi on the same day. Petitioner in the petition states that though he was initially in the business of shoes with his father but thereafter he started restaurant business. However, he had no house of his own as he was spending lot of money on the instructions of his mother for construction of various properties for Baba and also gave him a diamond necklace worth ₹70 lakh. Due to the ill activities of Baba, a Sevika of Baba got pregnant and then died under suspicious circumstances. On registration of the FIR, Baba absconded and was given shelter by his mother. Real sister of the petitioner was offered as Sevika to the Baba and she became a Sadhvi which ceremony was performed with great pomp and show. Petitioner had performed the first marriage to Ritu, who was a blind devotee of the Baba and the two daughters were born from the wedlock on 3<sup>rd</sup> January, 1994 and 11<sup>th</sup> August, 1999. Ritu died on 16<sup>th</sup> January, 2009 after being diagnosed of motor-neuron disease whereafter the petitioner married Neetu Aggarwal, who was also a devotee of Baba and a divorcee.

5. The petition further notes that in the year 2014 when financial and sexual exploitation of the followers by the Baba came to his notice, the petitioner got published the pamphlets as above whereafter he was attacked. However, since attacks were mainly by the relatives and his own mother and two daughters, the petitioner joined mediation proceedings through the Delhi Government Mediation and Conciliation Centre. However, no settlement could be arrived at and thus differences aggravated. During the mediation proceedings, the mother of the petitioner stated that she wanted to dispossess the petitioner and his wife and to live with her granddaughters. Thereafter, the petitioner filed a complaint against the financial illegalities committed by the Baba before the Central Board of Direct Taxes on 5<sup>th</sup> November, 2015 and as an onslaught to the same, the mother and the daughters of the petitioner filed a complaint under Section 125 Cr.P.C. against the petitioner. On 1<sup>6th</sup> April, 2016 mother and daughters of the petitioner vacated the house. On 1<sup>7th</sup> April, 2016 goons of Baba along with the petitioner's relatives entered his house and disconnected the electricity, however, no action was taken on the petitioner's complaint. Thereafter, further attacks took place on the petitioner from the followers of the Baba which included his family members and on 2<sup>0th</sup> April, 2016, mother of the petitioner addressed a letter to the Baba/Anant Shree Sukhramji Trust stating that she along with her granddaughters and the belonging was vacating the premises and handing over the possession however, her son and his wife were in possession of one room which they were not vacating. In all these actions, his mother and two daughters supported the Baba and gave statements against the petitioner. Thereafter, the elder daughter of the petitioner made a complaint to the Sales Tax Department on 8<sup>th</sup> November,

2016 against the petitioner alleging that he was earning crores of rupees and filing false returns etc. On 1<sup>6th</sup> April, 2017, followers of Baba attacked the petitioner in front of his house and when his wife came to the rescue, she was molested. A complaint was also got lodged by one of the followers of Baba against the petitioner being FIR No.73/2017. Due to the activities of the followers of Baba on the complaint of the wife of the petitioner, FIR No.76/2017 was registered on 1<sup>7th</sup> April, 2017. After repeated warnings and molestation at the hands of the Baba and his followers, wife of the petitioner filed a complaint dated 8<sup>th</sup> May, 2017 against the Baba and his followers for molestation on the basis of which FIR No.256/2017 under Sections 354/354A/506 IPC was registered only on 2<sup>nd</sup> October, 2017 at PS Subzi Mandi. As a counter blast to the complaint of the petitioner's wife against the Baba made on 8<sup>th</sup> May, 2017, the daughters of the petitioner filed the above noted complaint on 2<sup>0th</sup> May, 2017 leveling allegations of molestation and rape against the petitioner on the basis of which the FIR in question was registered.

6. The petitioner has supported this petition by various complaints filed by the petitioner as well as the daughter of the petitioner to the Commissioner, Delhi Sales Tax Department way back on 18<sup>th</sup> November, 2016. The complaints clearly show that the relations between the parties were not cordial. Further when the daughters had separated from the father in April, 2016 and the elder daughter could write a detailed letter to the Commissioner, Sales Tax on 18<sup>th</sup> November, 2016 about the alleged financial irregularities in the petitioner's business and non-payment of tax, there was apparently no fear in complainants deterring them to lodge the complaint on the allegations in FIR which were till the year 2013. Be that as

it may, when this petition came up before this Court on 12<sup>th</sup> April, 2018 for grant of bail, this Court issued notice returnable on 24<sup>th</sup> July, 2018 and when it was informed to the Court that the dates for examination of the two prosecutrix was fixed for 26<sup>th</sup> July, 2018. Thus, this Court vide order dated 24<sup>th</sup> July, 2018 directed the learned Trial Court to make its best endeavour to examine the two prosecutrix on 26<sup>th</sup> July, 2018 and in case the matter is adjourned, a shorter date be given. The bail application was notified for 6<sup>th</sup> September, 2018.

7. Learned Senior Counsel for the petitioner and learned APP for the State have handed over proceedings of the learned Trial Court dated 26<sup>th</sup> July, 2018 wherein the examination-in-chief of the elder daughter was partly recorded, however, thereafter she stated that she was unwell as she was on the family way and wanted an adjournment. Even the younger daughter sought for an adjournment as she was not feeling well. Hence, she was discharged un-examined. Matter was listed for examination of the two prosecutrix on 28<sup>th</sup> August, 2018 at 12:00 P.M. Though in the order sheet dated 28<sup>th</sup> August, 2018, presence of both the victims was recorded, however, the order sheet noted the contention of learned counsel for the complainant/victim who stated that the prosecutrix were unable to appear before the Court as the elder one had to go to the hospital and the younger one was to accompany her. The matter was again listed on 31<sup>st</sup> August, 2018 for examination of the victims when they were present however the Vulnerable Witnesses Room was occupied. Learned counsel for the petitioner admitted number of documents such as birth certificate, admission form etc. so as to relieve the prosecution from examining extra witnesses resulting in the prosecution giving up four witnesses. However, the two

victims requested that the date for recording of their evidence be postponed towards the end of January, 2019 as the elder one was on the family way, thus not in a position to move much and the younger one was not in a position to leave the elder sister. It is thus evident that the statements of the two prosecutrix cannot be recorded in the near future.

8. Petitioner has been in custody since 8<sup>th</sup> September, 2017. The two prosecutrix are not residing with the petitioner. Consequently, this Court deems it fit to grant bail to the petitioner on his furnishing personal bond in the sum of ₹50,000/- with one surety of the like amount to the satisfaction of the learned Trial Court, further subject to the condition that the petitioner will not leave the country without the prior permission of the Court concerned and in case of change of residential address, the same shall be intimated to the Court concerned by way of affidavit. The petitioner will also not try to meet or influence the two victims in any manner.

9. Petition is disposed of.

10. It is clarified that any observation made hereinabove is not an expression of final opinion on the merits of the case.

11. Order dasti.

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**(MUKTA GUPTA)**  
**JUDGE**

**SEPTEMBER 13, 2018**  
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