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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2629/2019**

MUSRAT @ MUSKAN @ KHUSHI Petitioner
Through Mr. Jyoti Gupta, Adv.

Versus

STATE Respondent
Through Mr.Panna Lal, APP for State.
SI Sanjeev , PS Gazipur

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER
% **17.10.2019**

CRL.M.A. 38462/2019 (exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

BAIL APPLN. 2629/2019

Vide this application the petitioner/ accused no.3 seeks grant of bail in FIR No.340/2018 registered at PS Gazipur, District East Delhi under Sections 365/366/370(A)/372/376/120B/109/328/34 IPC r/w Section 4 & 17 of POCSO Act.

Learned counsel for the petitioner submits that petitioner is in JC since 01.08.2018 without having any role in the aforesaid crime. She has drawn attention of this Court to the FIR wherein it is mentioned that around 6 months back, the prosecutrix was returning from her school when she met

a lady of 25-26 years of age who gave her something to eat due to which she lost her consciousness and when she opened her eyes, she found herself locked in a room. There, one uncle and an aunt were residing who were not allowing the prosecutrix to leave the house and after around a week, the prosecutrix realised that she was in Delhi. One month later, one aunty took her to different places where different men used to forcibly rape her and the above mentioned uncle and aunt used to beat her if she resisted. After sometime, she was sent to house of one 'Khushi' (petitioner herein) who was living with her husband and children. Later, on the same day, an aunt, namely Chhoti Yadav, took her to her house where she was living with her husband Pankaj Yadav.

Learned counsel submits that the only allegation levelled against the petitioner is that the prosecutrix was brought to her house where she was living with her husband and children and thereafter Chhoti Yadav took the prosecutrix to her residence. She has also drawn attention of this Court to statement of PW-1 (prosecutrix) recorded before the Court on 14.01.2019, wherein she has stated the facts as narrated in the FIR and nowhere the prosecutrix has alleged any sexual assault at the residence of petitioner herein.

Learned APP for the State has opposed the present application by stating that there is a syndicate which abducts/ kidnaps small children and forces them into prostitution and the petitioner is a member of such syndicate, therefore, the prosecutrix was taken to her house and was later on taken by Chhoti Yadav.

The fact remains that neither the allegation of sexual assault has been mentioned in the FIR against the petitioner nor she has anywhere deposed

before the Court or in the statement given to the police to that effect. In view of the above, coupled with the fact that the petitioner is in JC since 01.08.2018, I deem it a fit case to grant bail to the petitioner.

I hereby direct the Trial Court to release the petitioner on bail on her furnishing personal bond in the sum of ₹25,000/- with two sureties in the like amount to its satisfaction.

The application is allowed and stands disposed of accordingly.

The petitioner is directed to appear as and when so directed by the Trial Court and shall not influence the prosecution witnesses in any manner.

It is made clear that the observations made herein shall not have any bearing on the merits of the case or any influence on the proceedings before the Trial Court.

Copy of order be given dasti under the signature of the Court Master.

SURESH KUMAR KAIT, J

OCTOBER 17, 2019

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