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

+ **BAIL APPLN. 1220/2019**

SHABNAM TANWARPetitioner

Through: Mr. Vishal Raj Sehijpal and
Mr. Sunil Sagar, Advocates

versus

STATE (GOVT. OF NCT OF DELHI)Respondent

Through: Ms. Neelam Sharma, Additional
Public Prosecutor for respondent-
State with SI Bansi Lal

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **15.05.2019**

CRL.M.A. 10427/2019 (Exemption)

Allowed subject to all just exceptions.

BAIL APPLN. 1220/2019

Petitioner seeks pre-arrest bail in FIR No. 22/2019 under Sections 366A/372/420/120B/324 of IPC & Section 4 of POCSO Act (*The Protection of Children from Sexual Offences Act 2012*) registered at police station K.M. Pur, Delhi while claiming to be innocent.

Learned counsel for petitioner submits that petitioner had counselled the prosecutrix and co-accused-*Satish Khanna* to get married and the prosecutrix had gone to Bhatinda with co-accused-*Satish Khanna* willingly and petitioner has been falsely implicated in this case.

Learned Additional Public Prosecutor for respondent-State has

handed over copy of the statement of prosecutrix recorded under Section 164 of Cr.P.C.

The parameters to be considered while dealing with application for *pre-arrest bail* as spelt out by Supreme Court in '*Siddharam Satlingappa Mhetre Vs. State of Maharashtra & Ors.* (2011) 1 SCC 694 and later reiterated in *Jai Prakash Singh Vs. State of Bihar & Anr.* (2012) 4 SCC 379 are as under:-

“112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

(i) the nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(ii) the antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(iii) the possibility of the applicant to flee from justice;

(iv) the possibility of the accused's likelihood to repeat similar or [the] other offences;

(v) where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(vi) impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(vii) the courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because overimplication in the cases is a matter of common knowledge and concern;

(viii) while considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

*(ix) the court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
(x) frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”*

Upon perusal of the FIR of this case and prosecutrix's statement under Section 164 of Cr.P.C, I find that the allegations leveled against petitioner are of heinous nature. No case for grant of pre-arrest bail to petitioner is made out.

Accordingly, this application is dismissed.

**(SUNIL GAUR)
JUDGE**

MAY 15, 2019

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