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

+ **BAIL APPLN. 1519/2019**

MONU @ MANISH

..... Petitioner

Through: Mr. V.K. Anand, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Kusum Dhalla, APP for the State
with ASI Rajmal, PS Swaroop Nagar

+ **BAIL APPLN. 1520/2019**

DEEPAK GHAI

..... Petitioner

Through: Mr. V.K. Anand, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Kusum Dhalla, APP for the State
with ASI Rajmal, PS Swaroop Nagar

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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24.07.2019

Certain acts of commission are attributed to the petitioners in the complaint of a fourteen years' old boy on which first information report (FIR) No.4/2019 has been registered by Police Station Swaroop Nagar on 05.01.2019 and investigation taken up into the offences suspected to have been committed as those punishable under sections 377 read with section 34 of Indian Penal Code, 1860 (IPC) and section 6 of Protection of Children from Sexual Offences Act, 2012.

BAIL APPLN. 1519/2019 etc.

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The first informant boy has referred to the incident as one that had happened on the night of 13.10.2018, it being stated (not elaborately or specifically described) that a “*wrong act*” had been committed to him which has been taken as an act of he having been sodomized by the second petitioner, he being assisted by the first petitioner. The second petitioner is indicated to be the cousin brother of the mother of the child while the first petitioner is described as his uncle (*mausa*). As per the allegations in the FIR, the first informant child is living with his father Sanjay Sarin. There is reference to a dispute between Sanjay Sarin and his wife *i.e.*, the biological mother of the first informant child. There is also a reference to Sanjay Sarin having been earlier arrested in a case registered at the instance of the biological mother of the child.

While pleading innocence and an effort to falsely frame, reference is made by the petitioners to two previous FIRs, *i.e.*, FIR No.584/2015 and FIR No.446/2018 of Police Station Swaroop Nagar. The first said FIR involved offence under section 376 IPC, certain acts of commission having been attributed to Sanjay Sarin by another woman who, it is stated, had been in an illicit relationship with him for a prolonged period, this also having given rise to cause of marital discord. It is stated that the trial in the said case is pending. The second said FIR was registered at the instance of the biological mother of the first informant child herein against her husband Sanjay Sarin accusing him of having committed offences under sections 498-A/328 IPC.

There are two other siblings of the first informant child, one of them being a girl who is living with the biological mother, the other being a boy,

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who is in the custody of Sanjay Sarin. It is the argument of the petitioners that the FIR has been registered to falsely frame the petitioners, at the instance of Sanjay Sarin only to settle score.

While this aspect will have to be a subject of pending investigation, the fact remains that the FIR was registered belatedly, there being no explanation offered at this stage for the same. It is also noted that the MLC is inconclusive with regard to possibility of sexual assault.

In these circumstances, the petitions are allowed. It is directed that in the event of the petitioners being arrested, they shall be released on bail by the arresting officer on furnishing personal bond in the sum of Rs.20,000/- each with one surety in the like amount subject to the following further conditions:-

(i) The petitioners shall continue cooperating with the investigation and join the same as and when called upon to do so;

(ii) The petitioners shall not come in contact with or try to influence any of the witnesses connected to the case;

(iii) Prior to their release, they shall give the telephone numbers of self and of at least one other responsible family member besides that of the surety to the investigating officer;

(iv) They shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence;

(v) They shall not leave India without the prior permission of the court of cognizance or the trial court, as the case may be, and to ensure

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due compliance with this condition and shall deposit their passports, if they holds one, with the said court.

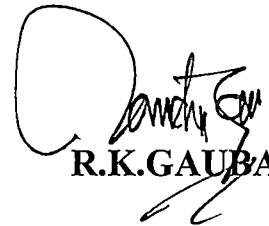
This order will inure only till the date of first appearance of the petitioners in the event of a charge-sheet being filed on conclusion of the investigation and process being issued against them by the court of cognizance.

Both the petitions stand disposed of in above terms.

Dasti under the signature of Court Master.

JULY 24, 2019

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R.K.GAUBA, J.