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

+ **BAIL APPLN. 2130/2019**

DULARE

..... Petitioner

Through Mr.M. Naushad, Adv.

versus

THE STATE (GOVT. OF NCT, DELHI)

..... Respondent

Through Mr.Tarang Shrivastava, APP for
State.

SI Mahipal PS Sangam Vihar.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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27.08.2019

Crl.M.A.34301/2019 (Exemption)

Allowed, subject to all just exceptions.

This application is, accordingly, disposed of.

BAIL APPLN. 2130/2019

Vide the present application, the petitioner seeks bail in case FIR No.547/2018 registered at police station Sangam Vihar for the offences punishable under section 376/506 IPC and section 4 of the POCSO Act.

Case of the petitioner is that alleged relationship developed between the complainant and the petitioner was consensual and there was no force, coercion and inducement from the side of the petitioner, hence, the same does not amount to rape. Accordingly, section 376 IPC is not attracted.

Counsel for the petitioner submits that the complaint was lodged on

17.12.2018 and the complainant was aged about 23 years and she knew about the alleged relationship.

He further submits that the chargesheet has already been filed and charges under section 376(2)(n) and 506(II) IPC and section 4 of the POCSO Act have already been framed and statement of the prosecutrix was recorded under section 164 Cr.P.C. He further submits that the petitioner is in judicial custody since 06.03.2019 and the trial will take substantial time, therefore, there is no purpose for keeping the petitioner behind the bar.

Learned APP appearing on behalf of the state submits that the complainant had relationship with the petitioner since 2012 when she was minor and continued till the date, the complainant made the complaint. Consequently, the FIR against the petitioner was lodged.

As per the allegations against the petitioner, the complainant and the petitioner had consensual relation since 2012 and as per her date of birth, she became major in the year 2014. Even thereafter, she continued sexual relationship with the petitioner.

As stated by counsel for the petitioner that the complainant is working with some private company and she had consensual relation with the petitioner, therefore, the petitioner has made prima facie case to grant bail.

Accordingly, the petitioner shall be released on bail, in the event of his arrest, on his furnishing bond in the sum of ₹25,000/- with two sureties of the like amount to the satisfaction of the Trial Court. The petitioner shall cooperate with the investigation and make himself available for interrogation by police officer, as and when required.

In case of default of aforementioned conditions, the State is at liberty to take appropriate recourse in accordance with law.

Before parting with the order, it is relevant to mention that nothing contained in this order shall be construed as an expression on the merits of the case.

The application is accordingly disposed of.

Order *dasti*.

Copy of this order be transmitted to the Jail Superintendent and the Trial Court concerned for compliance.

SURESH KUMAR KAIT, J

AUGUST 27, 2019/ab