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

+ **BAIL APPLN. 2753/2019**

KISHOR KUMAR

..... Petitioner

Through Mr.Naveen Chandra, Adv.

versus

STATE

..... Respondent

Through Mr.Amit Chadha, APP for State with
SI Nitesh Shah, PS Fatehpur Beri

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% **14.02.2020**

The present petition is filed by the petitioner under Section 439 Cr.P.C. for grant of bail in FIR No.294/2018 for offences punishable under Section 376/506 IPC & Section 4/6 of POCSO Act registered at PS Fatehpur Beri.

As per prosecution case, on receipt of information vide DD No.25A dated 27.7.2018, W/SI Manju Meena (IO) reached at Army Base Hospital, Delhi Cantt. where doctor opined that a 14.5 years old daughter of ex-serviceman was brought by her mother with alleged history of sexual intercourse in December 2017 with an adult male, followed with amenorrhea and abdominal discomfort for 6 months and abdominal distension for past 3 months with no other external injury present over the body. The girl was diagnosed with five months pregnancy. Thereafter, statement of the victim's mother was recorded by IO whereby she alleged that her elder daughter (prosecutrix), who is about 14 years, studies in Class IX in Central School situated at Arjan Garh, New Delhi. One day she found her daughter chatting

with someone over WhatsApp and she came to know that her daughter was chatting with a person, namely Kishor (petitioner herein), who lives in her neighbourhood. Thereafter, she went to the house of petitioner and shouted on him and threatened him so as to stop talking to her daughter to which, petitioner pleaded forgiveness and assured her that he will mend his ways. In spite of her constant warning, petitioner continued talking to her daughter.

Further, case of prosecution is that on 26.7.2018, when she took her daughter for regular check-up at ECH hospital Lodhi Road, New Delhi, on which doctor after seeing medical report said that her daughter is 5 months pregnant after which she got her daughter admitted in Army Base hospital, Delhi Cantt., New Delhi. It is further alleged that daughter of complainant told her that petitioner, in the month of February 2018, took her at his friend's place and did wrong act with her.

The prosecutrix in her statement under Section 164 Cr.P.C. stated that they had shifted from Race Course to Aya Nagar last year. Petitioner was their neighbour. His house is after two houses near to her house. He used to talk to her mother. Subsequently, they got acquainted. Petitioner asked her for friendship so she said that she can only be a friend of him. Then, they started having communications. One day petitioner called her to market near their house. She went to market from tuition. Petitioner gave her a chocolate, thereafter, she ate chocolate and she did not remember what happened after that. When she got conscious, petitioner was with her. They were near market. Then petitioner went to her home. Her mother came to know that both victim and petitioner are talking. Her mother went to his home and made him understand. Even then petitioner used to talk to her. Then petitioner called her to meet him but she refused saying that she cannot meet

him. One day, her mother was not at home so he came to her home. At that time she was alone as her mother had gone somewhere for some work and her sister had gone to tuition. He forcibly started removing her clothes and raped her. After committing rape, he threatened her that if she tells anything to anyone then he could do anything to her mother and sister. Petitioner always used to come to her home when her mother and sister were not at home and forcibly enter into her home and used to rape her repeatedly. This went on. She was not having periods from last 4-5 months. So, her mother took her to a doctor for normal check-up. There doctor conducted test and told her mother that she was pregnant.

It is stated by prosecutrix that last intercourse she had with petitioner in the month of December, 2018 and test was conducted on 26.7.2018 and at that time she was five months pregnant.

However, without commenting upon merits of case, I am of the view that the present case is fit for bail. Moreover, petitioner is in custody for last about 19 months.

Accordingly, petitioner shall be released on bail on his furnishing a personal bond in sum of ₹15,000/- with one surety of the like amount to the satisfaction of the Trial Court.

The present bail application is allowed and disposed of.

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

Order *dasti* under the signatures of Court Master.

SURESH KUMAR KAIT, J

FEBRUARY 14, 2020/rk