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

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Date of Decision: 03.03.2020

+ **BAIL APPLN. 179/2020**

RIPUL SHARMA

..... Petitioner

Through: Mr. M.P.Sinha along with
Mr. Girik, Mr. Yatharth
Sinha, Mr. Ayush Saini and
Mr. Kushagra Goel,
Advocates.

versus

STATE (GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Tarang Srivastava,
Additional Public Prosecutor
for respondent/State with ASI
Sushma: PSBHD Nagar.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J (ORAL)

1. Vide this order, I shall dispose of a bail application filed under section 439 Cr.P.C on behalf of the petitioner **Ripul Sharma** in FIR No. 382/2019 u/s. 363/376 IPC & 4 POCSO Act, PS B.H.D.Nagar.

2. Ld. Counsel for the petitioner has prayed for bail on the ground that petitioner is innocent and has been falsely implicated. Petitioner is in judicial custody since 18.08.2019. It is submitted that investigation has already been completed and charge-sheet has also been filed and petitioner is not required for any investigation. It is further submitted that CDR clearly shows that the petitioner had not crossed the boundaries of Delhi on 06.08.2019 and he had not gone in any restaurant in Bahadurgarh. It is lastly submitted that petitioner has clean antecedents and he is a permanent resident of Delhi. It is, therefore, prayed that petitioner be released on bail.

3. Ld. APP for the State has opposed the bail application on the ground that the allegations against the petitioner are serious in nature. Petitioner has made sexual intercourse with the victim who was minor at the time of commission of offence without her consent. He has, therefore, prayed for dismissal of bail application.

4. I have considered the rival submissions. As per prosecution version, complainant/victim made a complaint alleging that she came in contact with the petitioner through instagram. On 20.02.2019, petitioner had come at Evergreen School, Jharoda

Kalan, Delhi on his motorcycle and took her to a restaurant at Bahadurgarh where he forcefully made physical relation with her without her consent. During the course of investigation, petitioner was arrested on 18.08.2019. Statement of victim was recorded under Section 164 Cr.P.C. wherein she has supported her version given in her complaint. As per school records, the date of birth of victim is 22.10.2004. Thus, victim was 14 years, 09 months and 15 days on the date of incident.

5. The above allegations appearing against the petitioner are serious in nature. There are clear and categorical allegations of sexual intercourse by the petitioner in the FIR. In her statement recorded under Section 164 Cr.P.C., the victim has again reiterated the allegations made in her complaint and deposed that petitioner had taken her to a restaurant in Bahadurgarh and made physical relations with her. Though, it is the defence of the petitioner that as per CDR, he has not crossed the boundaries of Delhi and facebook Messenger chats also belie the alleged incident of physical relations on 06.08.2019 and prosecutrix has failed to identify the alleged place of incident at Bahadurgarh but it is settled law that at the stage

of bail, the evidence or defence of the accused cannot be discussed, examined or analyzed and no mini trial can be conducted while deciding the bail application.

6. In view of facts appearing on record and keeping in mind the nature and gravity of offence and also considering the fact that victim was only 14 years, 9 months and 15 days old at the time of commission of offence, no grounds for bail are made out at this stage. The bail application is, therefore, dismissed and stands disposed of accordingly.

BRIJESH SETHI, J

MARCH 3, 2020

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