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

+ BAIL APPLN. 322/2020

NARESH KUMAR JAIN

..... Petitioner

Through: Mr. Muneesh Malhotra, Mr. Abhishek
Chauhan, Ms. Manjeet Kaur and Ms.
Kamya, Advs.

versus

THE STATE

..... Respondent

Through: Ms. Radhika Kolluru, APP for State
with SI Manoj Kumar, P.S. Ashok
Vihar.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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17.02.2020

1. By this bail application, the applicant seeks regular bail in FIR No. 506/2019 under Sections 363/376/201 IPC, Sections 6/16 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 registered at P.S. Bharat Nagar.
2. Learned counsel for the applicant submits that the applicant, who is aged about 73 years old, is in judicial custody since 23.01.2020.
3. Learned counsel for the applicant submits that the allegations qua the applicant are only with respect to Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Section 201 IPC. While referring to the Partnership Deed dated 06.02.2019, it is submitted that the aforesaid partnership deed was entered into by the applicant with the other co-accused

persons namely, Amit and Nitin. He has referred to paras 4 and 8 of the said partnership deed to emphasise that the present applicant was only a sleeping partner and all the workings of the 'Mixx Club & Lounge' were left to the other two co-accused persons. He has also referred to the legal notice dated 31.07.2019 whereby the applicant has served notice of retirement on the firm as well as the partner through speed post, tracking report whereof has been placed on record. He submits that in the aforesaid notice itself, it was stated that the applicant has not visited the Club.

4. On the other hand, learned APP for the State has opposed the grant of bail. She, on instructions from the Investigating Officer, submits that the allegations against the present applicant are for the offence punishable under Section 77 of the J.J. Act and Section 201 IPC. She has submitted that the excise licence and lease deed of the premises continues to be in the name of the present applicant. She further submitted that so far as Section 201 IPC is concerned, the CCTV footage was found to be deleted/destroyed at the time of the seizure. She also submits that the present case relates to an incident whereby a minor was served liquor in the 'Mixx Club and Lounge'.

5. In rebuttal, learned counsel for the applicant submits that the aforesaid excise license was obtained in February, 2018 and the lease deed was also prior thereto whereas the offence in the present case occurred in October/November, 2019.

6. In view of the above peculiar facts and circumstances of the case that the applicant was only a sleeping partner having served notice of retirement much prior to the period of offence and the fact that he is 73 years of age and is in custody since 23.01.2020, the applicant is admitted to bail on his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the

like amount to the satisfaction of the trial court and subject to the following conditions :-

(i) The applicant will not directly or indirectly make any inducement, threat or promises to the complainant or any other witness during the trial or tamper with the evidence.

(ii) The applicant shall provide the I.O./SHO P.S. Bharat Nagar with his mobile phone number and address and in the event of change of the same, shall inform the same to the I.O./SHO.

(iii) The applicant shall not leave the jurisdiction of the NCT of Delhi without prior permission of the concerned Court.

(iv) The applicant will remain regularly present before the trial court.

7. With the above directions, the bail application is disposed of.

8. Copy of the order be given Dasti to the counsel for the applicant.

FEBRUARY 17, 2020

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MANOJ KUMAR OHRI, J