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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 656/2020 and CRL.M.As. 5002/2020, 6750/2020**
RAVI KUMAR Applicant
Through: Mr. Ashok Drall, Advocate
(M:9811344837).

versus
STATE (NCT OF DELHI) Respondent
Through: Mr. Raghuvinder Verma, APP.
Ms. Richa Dhawan, Standing
Counsel, DHCLSC for Complainant.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
31.08.2020

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1. This hearing has been held through video conferencing.
2. The Applicant in the present case seeks regular bail. He has been accused of offences under Sections 363/366/376 IPC and Section 4 POCSO Act.
3. Ld. counsel for the Applicant seeks bail on the ground that the DNA report has shown that the blood sample of the Applicant does not match with the sample which has been taken from the *dari*. He submits that the Applicant is completely innocent and has been falsely implicated by the uncle (*Mama*) of the Complainant. He further submits that the Applicant has a wife and two minor children whom he has to take care of.
4. On behalf of the Complainant, Ms. Richa Dhawan, ld. counsel appearing on behalf of legal aid submits that the DNA report is not final and, in fact, the statement of the Complainant has been consistent and she has repeatedly confirmed her version of events. She further submits that the Complainant was a minor at the time of the incident and thus, the provisions

of the POCSO Act clearly apply. She argues that the crime being heinous, bail ought not to be granted.

5. Mr. Verma, Id. APP supports the contention of the Complainant. He further submits that the Applicant has only been in custody for about two years. Thus, looking at the nature of the offence, bail ought not to be granted.

6. The Applicant was arrested on 26th September, 2018 and charges were framed against him under the provisions mentioned above. He has been in custody for approximately two years. The status report indicates that the trial is on-going and the Id. Sessions Judge had recorded that the offences are serious in nature. During the pendency of this petition, the samples were already sent for DNA testing, report was called for. The Forensic Science Laboratory, Rohini, Delhi has sent the DNA report which shows that the blood sample of the Applicant does not match with the sample collected from the *dari*. Though the DNA report is just one of the pieces of evidence, at this stage, while examining as to whether the Applicant ought to be granted bail, it would be a relevant circumstance.

7. During the course of arguments, Id. counsel for the Applicant has submitted that the application for bail may be considered as one for interim bail instead of regular bail.

8. The Court has noted the fact that the Applicant was a *safai karamchari* working in the Municipal Corporation of Delhi. The only apprehension that was expressed on the last date was that the statement of the Maternal Uncle was not yet recorded. Considering the pandemic, as also the fact that the Applicant has a wife and two minor children, vide order dated 30th July, 2020 this Court directed the Id. Sessions Judge to record the

statement of the uncle (*Mama*) of the Complainant.

9. A letter dated 17th August, 2020 has been received from the Id. ASJ that the statement of Mr. Subhash, uncle of the Complainant was recorded on 10th August, 2020. Accordingly, the main apprehension which was expressed both by the Id. Sessions Court and before this Court no longer exists. In any event, since the petition is now only for interim bail, at this stage, this Court is inclined to grant interim bail to the Applicant for a period of 45 days from the date of release on the following terms and conditions:

- i. The Applicant shall submit a personal bond of Rs.10,000/- along with surety of the like amount. He shall give his live mobile number to the I.O. and be in a regular touch with the I.O., at least twice a week.
- ii. The Applicant shall not, in any manner, contact either the Complainant or her family members, including the Complainant's uncle or his family.
- iii. The Applicant shall also not visit the area where the Complainant resides.
- iv. The Applicant shall not leave Delhi.

10. Immediately upon the expiry of 45 days, the Applicant shall surrender. If the prosecution finds that the conduct of the Applicant is not satisfactory while he is out on bail, liberty is granted to the prosecution to move for cancellation of interim bail.

11. With these observations, the bail application and all pending applications are disposed of.

PRATHIBA M. SINGH, J.

AUGUST 31, 2020/MR/T