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

+ **BAIL APPLN. 894/2020**

PUSHKAR KIRA

..... Petitioner

Through Mr Shubham Shree, Advocate.

Mr Amit Gautam, Mr Rahul Kumar

Singh, Advocates.

versus

STATE

..... Respondent

Through Mr Tarang Srivastava, APP for state.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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13.05.2020

1. The petitioner has filed the present petition, *inter alia*, seeking interim bail on the ground that his father is suffering from a heart ailment and had undergone a surgical procedure on 29.04.2020. The petitioner states that he requires to attend to his father as his other family members are not in a position to do so.

2. The petitioner is stated to be aged about 23 years. He was arrested pursuant to an FIR 218/2019 under Section 376/506/ IPC and Section 6 of the Protection of Children of Sexual Offences Act, 2012 (POCSO) registered with P.S. Sarita Vihar.

3. The said FIR was registered at the instance of one Ms 'D' (name withheld) who claimed that she was 17 years old at the material time. She had claimed that she had become friendly with the petitioner on facebook

and had also met him a few times. She alleged that the petitioner had taken her to a guest house in Sarita Vihar and then established physical relationship with her without her consent. According to the petitioner, he was friendly with Ms 'D' and their relationship was consensual.

4. He had also stated that apart from taking in a hotel room in Sarita Vihar the petitioner and 'D' had also checked into other hotels in the past. He also stated that on the date of the incident the petitioner and Ms 'D' had gone to another guest house but the hotel management refused to check them in on the ground that Ms 'D' was not carrying her identity proof. He submits that this clearly established that the relationship between petitioner and Ms 'D' was consensual.

5. In addition to the above, it is also stated that father of Ms 'D' and the father of the petitioner had some disputes, which were concealed. According to the police it has been verified that Ms 'D' and the petitioner had visited another guest house (where they were denied admission) prior to checking into a room in Sarita Vihar.

6. The police are also investigating whether any honey trap had been laid and a separate FIR in this regard has been registered.

7. The petitioner has also produced a birth certificate of the prosecutrix Ms 'D' which shows her date of birth as 20.06.2000. There is thus a serious question whether any offence under the POCSO Act is made out because if the said Birth Certificate is accepted Ms 'D' was a minor on the date of the incident.

8. In view of the above and considering that the petitioner's father is ailing, this Court considers it apposite to allow the present petition. The petitioner shall be released for a period of forty-five days from the date of his release on bail on his furnishing a personal bond in the sum of ₹5000 to the satisfaction of the Jail Superintendent. This is also subject to following further conditions:-

(a) that the petitioner shall not leave the National Capital Territory of Delhi;

(b) that the petitioner shall provide his contact number and ensure that he is reachable at all times; and

(c) that the petitioner shall ensure that he is available for all proceedings and he shall surrender on completion of the period of interim bail.

9. The Jail Authorities are directed to act on the basis of this order as uploaded on the website of this Court without any further communication.

10. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

MAY 13, 2020

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