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

+ **BAIL APPLN. 1577/2020**

NEERAJ KUMAR SINGH

..... Petitioner

Through: Mr Pratap Singh, Mr Arun Yadav and
Mr G. D. Kaushik, Advocates.

versus

GOVT. OF NCT OF DELHI

..... Respondent

Through: Mr Ravi Nayak, APP for State with
SI B. L. Meena, SI Sarita IO and SI
Naveen (IO), PS Sunlight Colony.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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19.08.2020

[Hearing held through video conferencing]

1. The petitioner has filed the present petition, *inter alia*, seeking bail in FIR No.0131/2019 under Sections 376/363/366/34 of the IPC and Section 6 of the Protection of Children from Sexual Offence Act, 2012 (POCSO), registered with PS Sunlight Colony.
2. The said FIR was registered at the instance of the prosecutrix (name withheld), who was at the material time aged about sixteen years.
3. It is stated that she is a resident of Balia, Uttar Pradesh. Her father runs *thela* rickshaw and her mother is a housewife. It is stated that on 16.04.2019, she had quarrelled with her mother as her parents wanted her to get married to a boy, who was much older to her. In order to avoid the same, she ran away from the house at about 1:00 PM on 20.04.2019. She boarded a

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train to Banaras to try and meet her friend Neeraj (the petitioner herein). The petitioner hails from Bihar and works in a cement factory at Banaras. When she reached Banaras, she found that the petitioner was not there and he had gone to his village in Bihar. She stated that on the same day at about 10:00 PM, she boarded a train to go to Ghaziabad and reached Ghaziabad station in the morning of 21.04.2019. She intended to reside with the friend of her maternal uncle but on being contacted on telephone, he refused to allow her to stay in the house. She stated that on the same day, she came to New Delhi Railway Station at about 5:00 to 6:00 PM and was waiting for a train to go to Banaras, when a boy named Raju approached her and made enquiries from her. She stated that she narrated the entire course of events and told him that she had to go to Banaras. She alleged that he told her that the train was late and he would get her a bag to carry her belongings. She stated that she went with him to get a bag and on returning to station, she found that the train for Banaras had left. She alleged that Raju took her to a hotel near Nizamuddin Railway Station and she stayed with him for the night, in the said hotel. She alleges that Raju had forcibly raped her in the hotel premises.

4. She stated that on 22.04.2019 at about 7:00 to 7:15 AM, Raju told her that they would go to the railway station and she could board the train for Banaras. However, he did not take her to the station. She stated that he bought clothes for her and also gave her a sum of ₹1,000/-. Thereafter, he took her to another hotel in Paharganj and he put her up at the said hotel till 27.04.2019. She alleged that during her stay in the said hotel at Paharganj, he had forcibly raped her many times.

5. She states that on the night of 27.04.2019 at about 11:00 PM, she

boarded a train for Banaras from Anand Vihar Railway Station. She stated that she called the petitioner on phone and stayed with the petitioner till 03.05.2019. She further alleges that the petitioner had forcibly raped her various times. She states that on 03.05.2019, she and the petitioner married, each other and, thereafter, they started residing together in a rented room. On 18.05.2019, the family members of the petitioner objected to their marriage and did not accept the same. She alleges that the petitioner told her to go to Delhi to find some job and assured her that he would bring her back after some days.

6. She states that she boarded a train to Delhi on 19.05.2019. She reached Delhi on 20.05.2019 at about 5:00 AM. She states that she met one Sahil @ Karan and she narrated the entire course of incidents to him. He took her to his assumed sister, where she stayed for one day. Thereafter, she took her to one Munni (one of her relatives) to get her some work. She states that she narrated all the incidents to Munni and Munni called a person from a NGO, who brought her to the police station.

7. The prosecutrix has joined the proceedings through video conferencing. On pointed query from the Court, she reiterated that she had married to the petitioner. Initially, she was reluctant for the petitioner to be granted any bail. However on being explained that granting bail at this stage does not mean that the case against the petitioner would be closed, she stated that she has no objection for the petitioner being released on bail. However, she reiterated that she wanted the petitioner to be punished. The mother of the prosecutrix was also present along with the prosecutrix.

8. Constable Ravindra Chaudhary is also present along with the prosecutrix, and has assisted her in joining the proceedings as she had no

means to do so.

9. A plain reading of the FIR in question indicates that the petitioner had voluntarily proceeded to Banaras to meet the petitioner, as according to her, she was friendly with him. The petitioner is also a young man, aged about twenty one years and the prosecutrix alleges that they had married each other. In her first visit to Banaras, she found that the petitioner was not in the city and was in his village in Bihar. According to her, she had returned to Ghaziabad, Delhi and after staying with Raju for few days she again proceeded to Banaras.

10. The learned counsel appearing for the petitioner submits that in view of the above, it is apparent that the prosecutrix was pursuing the petitioner and not the contrary. He further submits that relations between them were obviously consensual and the petitioner has not committed any offence. Insofar as the contention that the petitioner was below the age of eighteen years at the material time, he submitted that there was nothing on record that would establish that the petitioner was aware of the same. He also submitted that it is the prosecutrix's case that they were married. Thus, there is no reason to prosecute the petitioner.

11. At this stage, it is not necessary to evaluate the evidence or the material collected by the investigation agency, in any detail. However, it is established that the prosecutrix and the petitioner had resided together in a rented room. It also appears that the prosecutrix was a minor at the material time. Considering that the prosecutrix had voluntarily proceeded to Banaras to join the company of the petitioner and claims that they are married, this Court considers it apposite to allow the present petition.

12. The petitioner would be released on bail on his furnishing a Personal

Bond in the sum of ₹15,000/- with one surety of an equivalent amount to the satisfaction of the concerned court/duty magistrate. This is also subject to the following further conditions:-

- a) the petitioner shall provide a contact number and ensure that he is reachable on it at all times;
- b) the petitioner shall ensure that he is available for the purposes of investigation as well as for all hearings before the concerned court;
- c) the petitioner shall telephonically/electronically contact the concerned IO on the first Monday of each calendar month and report his whereabouts; and
- d) the petitioner shall not contact the prosecutrix or any of her family members or try to influence her or any of the witnesses in any manner either directly or indirectly.

13. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

AUGUST 19, 2020
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