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

+ **BAIL APPL 1716/2020**

MOHD SHOEB

..... Petitioner

Through: Mr. M. Ahmad and Mr. M.K. Khan,
Advocates with prosecutrix, her
parent, her sister who is complainant
and her mother-in-law.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Ms. Radhika Kolluru, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

ORDER

% 28.08.2020

1. The present application has been filed seeking regular bail in FIR No.46/2020 registered under Sections 363/376 IPC r/w. Section 6 POCSO Act, P.S. Shastri Park, Delhi.

2. Learned counsel for the petitioner submits that at the time of incident, the prosecutrix was about 17 ½ years of age. He submits that the prosecutrix has married the petitioner and has referred to the *Nikahnama* dated 25.02.2020 where she had declared her age as 18 years. He has further referred to the school certificate of the first school attended by the prosecutrix where as per the admission record, her date of birth is 10.07.2002. He further refers to the statements recorded under Sections 161 and 164 Cr.P.C. where she has stated that she had gone with the petitioner

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out of her own will. It is further submitted that in the statement recorded under Section 164 Cr.P.C., it has been stated that the complaint was filed due to pressure from family members and no incident occurred with her. It is further submitted that the prosecutrix and her family has consented to the aforesaid marriage and presently, the prosecutrix is living along with the parents of the petitioner. The prosecutrix, her parents, the complainant (her sister) and her mother-in-law have appeared through V.C. link, who are identified by the I.O. and submit that they have no objection to the aforesaid marriage and the grant of bail.

3. Learned APP for the State has opposed the present bail application and submits that during investigation different dates of birth of the prosecutrix have come on record. She submits that in the MLC, the date of birth of the prosecutrix was given 11 years however, later on she told the doctor that she was 17 years old. In the statement recorded under Section 161 Cr.P.C., she has referred her age as 11 years however, in the complaint, her age was given as 14 years. Further, in the subsequent school attended by the prosecutrix, her date of birth was given as 20.05.2008. She, however on instructions, submits that it has been verified on 18.06.2020 that as per the admission record of the first school attended by the prosecutrix, her age was 17 ½ years at the time of the incident. The *Nikahnama* has also been verified to be correct.

4. In view of the facts and circumstances of the case, the petitioner is admitted to regular bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the

concerned Jail Superintendent/Duty MM/concerned Court and subject to the following conditions:-

- (i) The petitioner shall not leave the jurisdiction of NCT of Delhi during the period of trial without the prior permission of the concerned Court.
- (ii) The petitioner shall remain available on his telephone number (Mob. No. 9910865318) which he undertakes to keep operational at all times and in the event of change of her residential address, shall promptly inform the same to the I.O./SHO as well as the concerned Court.
- (iii) The petitioner shall regularly appear before the trial court.

5. With the above directions, the present application stands disposed of.

6. A copy of this order be communicated to the concerned court and the concerned Jail Superintendent electronically for information and necessary compliance.

MANOJ KUMAR OHRI, J

AUGUST 28, 2020

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