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

+ **BAIL APPLN. 1757/2020**

NASIR@NAZIR HUSSAIN

..... Petitioner

Through: Mr. Ravinder Tyagi and
Ms.Kanisshka Tyagi, Advocates.

versus

STATE OF DELHI

..... Respondent

Through: Mr. Raghuvinder Varma, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **17.07.2020**

CRL.M.A. Nos. 9410/2020(*exemption*)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CRL.M.A. Nos. 9411/2020(*exemption*)

Exemption allowed, subject to learned counsel for the petitioner undertaking to make good the defects within one week after resumption of regular functioning of the Court.

The application stands disposed of.

BAIL APPLN. 1757/2020

1. This petition for bail has been filed on behalf of the petitioner, who is undergoing trial in a case arising out of FIR No. 50/2017 registered in Police

Station Kotwali, under Section 376 of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

2. The petitioner's application for bail was dismissed by the Sessions Court, lastly on 12.06.2020. It appears from the record that the allegation against the petitioner is that he had sexual relations with the prosecutrix during the period April to November, 2016, when she was a minor. The prosecutrix became pregnant as a result and thereafter delivered a baby girl. In the course of trial, the blood sample of the accused has been taken for the purpose of genetic testing.

3. Mr. Ravinder Tyagi, learned counsel for the petitioner, contends that the petitioner was in fact a juvenile at the time of the alleged offence. He has drawn my attention to the order of the Juvenile Justice Board dated 26.04.2017, wherein on the basis of physical, dental, and radiological examination, the age of the petitioner has been assessed at 20-21 years. Mr. Tyagi submits that, in accordance with the judgments of this Court, the result of a radiological determination of age is subject to a margin of error of two years on either side.

4. Be that as it may, the order of the Juvenile Justice Board has been challenged by the petitioner, and the proceedings are pending before the Sessions Court. Mr. Tyagi states that the hearing in the appeal was concluded and the matter was fixed for orders in March, 2020, but it has been adjourned from time to time thereafter in view of the restricted functioning of the Courts due to the Covid-19 pandemic. According to Mr. Tyagi, the petitioner's appeal is now fixed for orders on 27.07.2020.

5. In this view of the matter, I do not consider it appropriate to grant bail to the petitioner at this stage. However, the Sessions Court is directed to

dispose of the petitioner's appeal regarding the assessment of his age on 27.07.2020 or soon thereafter as practicable and, in any event, within four weeks from that date. Mr. Tyagi submits that he would like to make further submissions in support of his appeal before the Sessions Court. He is at liberty to move the Sessions Court for that purpose, if required.

6. The present bail application is disposed of with the aforesaid observations.

PRATEEK JALAN, J

JULY 17, 2020

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