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

+ **BAIL APPLN. 1851/2020**

LUCKY

..... Petitioner

Through: Ms Vagisha Kochar and Mr Jujhar
Singh, Advocates.

versus

STATE

..... Respondent

Through: Mr Ravi Nayak, APP for State with
SI Rajeshwar, PS Palam Village.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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23.07.2020

[Hearing held through video conferencing]

CRL.M.A. 9774/2020

1. Allowed, subject to all just exceptions.

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2. The petitioner has filed the present petition, *inter alia*, praying that he be released on bail in connection with FIR No.117/2019 under Section 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO), Section 354 of the IPC and Section 66 of the Information Technology Act, 2000 registered with PS Palam Village.

3. The said FIR was registered at the instance of the prosecutrix, who was, at the material time, a minor aged about 15/16 years. She had stated that on the date of incident, she along with her cousin and friends (including

the petitioner) planned to visit a lounge – a *hookah lounge* named 1011 lounge. She stated that she was picked up by the petitioner and taken to said lounge, the co-accused Badal and one Atul were already present there. She further stated that after spending sometime at lounge, they all decided to visit a club (at the District Centre, Janakpuri). At that stage, one of her friends (Atul) and her cousin left their company.

4. She alleged that she alongwith the petitioner and co-accused reached the said club, however, she was denied entry by the bouncer as she was under age. At that time, she met one of her friends (Ms ‘S’) who facilitated her entry in the club by paying ₹200/-. She stated that at the club, she was forced to consume cold drinks, which were spiked with alchohol. She became inebriated but she kept dancing with her friends who were present at the club. She stated that the petitioner became jealous of the same. Thereafter, the co accused Badal told her that the petitioner is angry as she had come with him but was dancing with other persons.

5. After some time, the prosecutrix was asked to leave from the said club for the reason that she was inebriated. She alleged that, thereafter, she wanted to go home but the petitioner and the co-accused Badal persuaded her to go to MSK hotel to eat something so that she could get over her intoxication. She stated that inside the hotel room, co-accused Badal had attempted to misbehave with her but she had repelled his advances. After some time, the petitioner came in the room with a bottle of rum. She stated that the petitioner and co-accused forced her to consume alcohol. According to her, the co-accused mixed it in the cold drink and gave it to her. After consuming the drink, she started feeling intoxicated and dizzy and lied down on the bed. At that stage, the petitioner committed the said offence. He

kissed her; he removed her clothes and started touching and kissing her breast. She stated that she was helpless and could not move. According to her, he attempted to engage in sex with her. In a subsequent statement, she stated that he had raped her.

6. Charges for committing offences inter alia punishable under Section 6 and 8 of the POCSO Act were framed against the petitioner and he is being tried for the said offence. The trial is at an initial stage and the examination of the prosecutrix has been partly recorded. It transpires that she had started weeping at the stage of narrating what had happened at the MSK Hotel and, therefore, her remaining examination-in-chief was deferred.

7. This Court is of the view that considering the gravity of the offence and the stage of trial, it would not be apposite to allow the present petition

8. The petitioner's case cannot be equated to that of the co-accused as the allegations levelled against him are not similar. In view of the above, the present petition is dismissed.

VIBHU BAKHRU, J

JULY 23, 2020
MK