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

+ **BAIL APPL 1919/2020**

SALMAN

..... Petitioner

Through: Mr. Rajesh Pandey, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Dr. M.P. Singh, APP for State with
W/SI Prity Bala, P.S. Hazrat
Nizamuddin with prosecutrix and
complainant
Ms. Anu Narula, Advocate for the
complainant

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

ORDER

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14.09.2020

1. The present application has been filed seeking regular bail in FIR No.370/2014, registered under Sections 363/376 IPC and Section 4 of the POCSO Act at Police Station Hazrat Nizamuddin, New Delhi.
2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and has been in custody since 01.08.2014. He submits that the prosecutrix, who is the petitioner's sister-in-law, did not level any allegations for the offence punishable under Section 376 IPC during her statement recorded either under Section 161 Cr.P.C or under Section 164 Cr.P.C. Rather, she stated that the petitioner had taken her away to his house at Shaswan, Badaui and kept her there. She further stated

BAIL APPL 1919/2020

Page 1 of 3

that the present petitioner once tried to force her but when she refused, he understood and he did not try any other thing.

3. Learned APP for the State, on the other hand, has opposed the bail application. He submits that even though the prosecutrix did not level any allegation during the course of investigation however in Court, during her testimony, she levelled the allegation of rape against the present petitioner. He further submits that initially, the complainant (mother of the prosecutrix) refused for internal medical examination of the prosecutrix however, later, on 27.07.2014, she was taken for her medical examination where the doctor opined “*UPT Negative and Hymen not intact*”.

4. Ms. Anu Narula, learned counsel for the complainant, submits that the prosecutrix has also joined the proceedings along with her mother (the complainant) and the I.O. She submits that the prosecutrix, who is now a major, has no objection to grant of bail. Even the prosecutrix during the V.C. hearing has stated that she has no objection in case the petitioner is considered for regular bail.

5. It has been informed that all the prosecution witnesses including the prosecutrix have been examined and the case is now listed for examination of defence witnesses.

6. Looking into the facts and circumstances of the case and the fact that the petitioner is in custody since 01.08.2014, 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 NCT of Delhi without prior permission of the Trial Court.
- (ii) The petitioner shall not try to get in touch with the complainant/prosecutrix or any other prosecution witness directly or indirectly and shall not make any effort to tamper with the evidence.
- (iii) The petitioner shall remain available on the mobile number 9582321920, which he undertakes to keep operational at all times.
- (iv) In the event of change of residential address/ contact details, the petitioner shall promptly inform the same to the concerned I.O./W/SI Prity Bala (Mob. No.9999748707) as well as the concerned Court.
- (v) The petitioner shall regularly appear before the Trial Court.

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

8. Nothing stated herein above shall be construed as an expression on the merits of the case. The observations are only *prima facie* and have been made to dispose of the present bail application.

9. A copy of this order be communicated to the concerned Jail Superintendent electronically.

MANOJ KUMAR OHRI, J

SEPTEMBER 14, 2020

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