

Via video conferencing

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2111/2020 & CRL.M.(BAIL) 7809/2020

AAMIR @ AMIR AKHTAR

..... Petitioner

Through Mr.Varun Tyagi with Mr.Bharat
Gupta, Mr.Vishesh Chauhan, Advs.

versus

STATE

..... Respondent

Through Mr.M.S.Oberoi, APP with Insp.
Sandeep Kumar, SHO & S.I. Rajani, P.S.Moti
Nagar.

Mr.Abhishek Bhardwaj, Adv for complainant.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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21.08.2020

1. The present petition under Section 439 of the Code of Criminal Procedure, 1973 seeks regular bail in FIR No.201/2019 under Sections 363/376 of the Indian Penal Code, 1860 & Section 4 of the Protection of Children from Sexual Offences Act (POCSO Act), 2012 registered at P.S.Moti Nagar, Delhi.

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated on the basis of a misunderstanding on the part of the complainant, who has already made a statement to this effect before this Court on 07.08.2020. He further submits that in any event the complainant was over 18 years of age on the date of the alleged incident, which fact not only emerges from a copy of her Aadhaar Card placed on record as Annexure L, but is also evident

from her medical examination report dated 03.06.2019, wherein it has been opined that the complainant appears to be 17 to 19 years of age. He, therefore, contends that even if the complainant's allegations in the FIR are taken as correct, no case under POCSO Act was made out against the petitioner. He further submits that the petitioner, who belongs to the downtrodden strata of society has already remained in custody for more than 1 year and, therefore, prays that he be released on bail.

3. The complainant is also represented through counsel, who also reiterates that the complainant was already more than 18 years of age on the date of incident. He further submits that the complainant reiterates the stand taken by her in the affidavit dated 05.08.2020 filed by her before this Court and, therefore, has no objection to the petitioner being released on bail.

4. On the last date, the complainant had appeared in person along with her mother through video conferencing and had clearly stated that she was more than 18 years of age on the date of incident. She had further stated that she had wrongly implicated the petitioner on account of a misunderstanding.

5. In view of the aforesaid position, which prima facie shows that no case under POCSO Act may be made out against the petitioner as also the fact that the complainant and her mother have categorically stated before this Court that the complainant was already more than 18 years of age on the date of the alleged incident and had lodged the complaint against the petitioner under a misunderstanding, I am of the view that the petitioner has made out a case for being released on bail.

Accordingly, subject to his furnishing a personal bond for a sum of Rs.50,000/- to the satisfaction of the Jail Superintendent, the petitioner be released on bail. The petitioner will neither leave the NCR without prior permission of the Trial Court, nor contact any of the prosecution witnesses. The petitioner will also furnish a mobile phone number to the Investigating Officer, which number will be kept operational all times so that he can be contacted by the concerned Investigating Officer, if the need so arises. The petitioner will also contact the Investigating Officer telephonically every Monday through a telephonic message/whats app message and will appear before the Investigating Officer and/or the Trial Court, as and when directed.

6. The petition along with pending application is disposed of.

REKHA PALLI, J

AUGUST 21, 2020

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