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

+ **BAIL APPLN. 2448/2020**

RUPESH

..... Petitioner

Through: Mr Rajesh Kabir, Advocate

versus

THE STATE NCT OF DELHI

..... Respondent

Through: Mr Ravi Nayak, APP for State with
SI Chandar Kanta, PS Kapashera.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **15.09.2020**

[Hearing held through video conferencing]

1. The petitioner has filed the present petition, *inter alia*, seeking bail in connection with FIR No.0243/2018 under Sections 323/341/376/34 of the IPC and Section 6 of the Protection of Children From Sexual Offences Act, 2012 (POCSO Act) registered with PS Kapashera.
2. The said FIR was registered at the instance of the prosecutrix (since deceased). She had alleged that she became acquainted with the petitioner in the year 2017 and had met him on 07.01.2017. She alleged that three-four days, thereafter, he had forcibly established physical relationship with her. She further stated that two-three days after the said incident, he had once again established physical relationship with her on the pretext that they would get married. She alleged that they had continued their physical relationship, on his promising to get married to her.

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3. The petitioner got married on 05.04.2018 to another girl and the prosecutrix stated that, thereafter, she broke up her friendship with the petitioner. Nonetheless, he called her and took her to some place on 13.05.2018 and once again established physical relations with her. She states that on 19.05.2018, the petitioner had called her to Salapur and she went there. She alleged that she was assaulted by the family members of the petitioner and his mother had also slapped her, which resulted in her losing consciousness. She was brought home by certain police officials and, thereafter, taken to the hospital.

4. Her statement under Section 164 of the Cr.PC was recorded on 21.05.2018.

5. In her statement, she stated that she became acquainted with the petitioner one year prior to the date. She reiterated the allegation that he had promised to get married to her and had established sexual relationship with her without her consent. She alleged that the petitioner got married on 05.04.2018, thereafter, she stopped meeting the petitioner. She alleged that on 18.05.2018, the petitioner had called her to Salapur at about 8:30 PM. At that place, she was assaulted by the family members of the petitioner and they gave her a severe beating. She stated that she lost consciousness and they left after throwing her on road. She was taken home by the police officials and, thereafter, the FIR was filed.

6. During the course of investigation, it has been found that the petitioner's date of birth, as recorded in the school record, is 05.01.2012. It is stated that she had joined the school in the second standard in the year 2012. Thus, it does appear that the prosecutrix was a minor at the time of

the alleged incident.

7. The prosecutrix has since committed suicide and a separate FIR (FIR No.401/2018) in this regard has been registered with PS Palam Vihar, Gurugram. The alleged offence is serious as it is alleged that the prosecutrix was a minor at the material time. Considering the same, this Court does not consider it apposite to allow the present petition at this stage.

8. This Court is informed that out of sixteen witnesses, two witnesses have been examined. The testimony of the school teacher of the prosecutrix supports the prosecution's case that the prosecutrix was a minor at the material time. The next date of hearing before the Trial Court is fixed on 09.11.2020. Considering most of the witnesses that remain to be examined are official witnesses, this Court requests the Trial Court to complete the trial as expeditiously as possible and in any event, within a period of eight months from today. The petitioner would be at liberty to apply, if the Trial Court is unable to complete the trial within the aforementioned period.

9. The petition is dismissed with the aforesaid observations.

10. A copy of this order be communicated to the concerned Trial Court.

VIBHU BAKHRU, J

SEPTEMBER 15, 2020
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