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

+ **BAIL APPLN. 2757/2020**

SARWAN KUMAR @ PARMOD Petitioner

Through **Mr. Mukesh Kumar Singh, Adv.**

versus

STATE (NCT OF DELHI) Respondent

Through **Mr. Amit Chadha, APP for the State
with DCP Atul Thakur, South
District, SHO Kuldeep Singh, SI
Sandeep, PS Fatehpur Beri, Delhi**

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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22.09.2020

The hearing has been conducted through video conferencing.

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. read with Section 482 Cr.P.C. for grant of interim bail in case FIR No.471/2017 dated 26.10.2017, for the offences punishable under Sections 366/376 IPC and Section 6 POCSO Act, registered at PS Fatehpur Beri, Delhi.
2. Learned counsel for the petitioner has orally prayed that the present petition may be treated as regular bail application.
3. His request is acceded to while exercising power under Section 482 Cr.P.C.
4. Pursuant to directions passed on 21.09.2020, DCP Atul Kumar, South District, Delhi is present and has explained as to why the IO and SHO concerned could not contact the learned APP for the State.
5. His explanation is accepted. Accordingly, the appearance of DCP

Atul Kumar is dispensed within the present case.

6. Notice issued.

7. Learned APP for the State accepts notice.

8. With the consent of the counsel for the parties, the present petition has been taken up for final disposal.

9. Learned APP has opposed the present petition by stating that the date of birth of the prosecutrix, as per her school record, is 12.03.2002 and she was abducted by the petitioner on 26.10.2017. They both went to Mumbai and thereafter, the prosecutrix was rescued on 05.03.2018 and the petitioner was absconding, however, he was arrested on 23.11.2018.

10. Learned APP further submits that it is observed in the impugned order passed by learned Sessions Court that the petitioner may extend threat to the family of the prosecutrix. Thus, if the petitioner is released on bail, he may influence the witnesses and cause any problem to the family of the prosecutrix. Thus, the present petition deserves to be dismissed.

11. It is not in dispute that the prosecutrix in her statement under Section 161 Cr.P.C. stated that she was forcibly abducted by the petitioner and she was taken to Mumbai whereas in her statement under Section 164 Cr.P.C. she stated that she compelled the petitioner to take her to Mumbai. She stayed there.

12. It is also not in dispute that when the prosecutrix came home, she was found to be pregnant. Thereafter, abortion was conducted and from DNA of the foetus, it was proved that the petitioner was its biological father.

13. It is also not in dispute that the prosecutrix is now married and leading her matrimonial life in Bihar. The prosecutrix and her father have already been examined. Thus, two witnesses out of total 18 witnesses have been

examined.

14. Keeping in view the aforesaid facts and the fact that petitioner is in judicial custody since 23.11.2018 and the trial of the case shall take substantial time, without commenting on the merits of the case, this Court is inclined to grant bail to the petitioner.

15. Accordingly, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- and with two sureties in the like amount to the satisfaction of the Trial Court.

16. The petition is, accordingly, allowed and disposed of.

17. The petitioner shall not influence/contact the prosecutrix, her family members or any witness directly/indirectly. He shall not visit the house of the prosecutrix or parents of the prosecutrix.

18. Copy of this order be transmitted to the Jail Superintendent concerned and Trial Court for necessary compliance.

19. The order be uploaded on the website forthwith.

SURESH KUMAR KAIT, J

SEPTEMBER 22, 2020/rk