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

+ **BAIL APPLN. 1979/2019**

NISCHEY RANA

..... Petitioner

Through Mr.Anuj Kapoor, Adv. (DHCLSC)

versus

STATE

..... Respondent

Through Mr.Hirein Sharma, APP for State.
SI Parveen Kumar PS Tilak Nagar.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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27.02.2020

1. Present petition is filed under section 439 Cr.P.C. on behalf of petitioner for seeking bail in case FIR No.460/2018 dated 26.09.2019 registered at Police Station Tilak Nagar.
2. Case of prosecution is that, on 26.09.2018, complainant (mother of prosecutrix) lodged a complaint to the effect that she is a teacher in Government School, Janakpuri and on 26.09.2018 around 02.45 p.m., when she returned from school to her house, found it locked and her son after coming from his tuitions informed that prosecutrix had gone to take tuitions. Thereafter, complainant opened the house with the second keys and found that all the lights of her house were on and a slip was lying on the table wherein it was written that '*Sorry Mummy But I have to go PLS DNT CREATE SCENE NOW.*' The mobile number 7065246575 of prosecutrix was also on switch off mode. However, she called the tuition teacher of

prosecutrix who informed her that prosecutrix did not come to attend tuitions. Then she checked the almirah and found that the jewellery and cash of Rs. 4 lakhs were missing. Thereafter, she went to the house of accused/petitioner where she met the mother of accused, who informed that about 15-20 minutes back, petitioner had gone to Punjab and he has carried his 10th Mark-sheet. Thereafter, she informed the police and FIR in question was registered under section 363 IPC. Thereafter, on 24.10.2018 i.e. about a month from the date of missing of prosecutrix, DD No. 22B was recorded in the police station to the effect that complainant has brought prosecutrix and the accused back from Pune, Maharashtra. MLC of prosecutrix was conducted wherein no injury of any kind was found on her body. Moreover, prosecutrix refused for her P/A, P/S, P/V tests.

3. On the other hand, learned APP has opposed the present petition by stating that prosecutrix was 17 ½ years, however, less than 18 years, thus, minor. Even, if prosecutrix went with him at her own wish then her consent is immaterial, therefore, there are serious allegations against petitioner. Thus, present petition deserves to be dismissed.

4. It is not in dispute that prosecutrix and petitioner have stayed at different hotels at different time e.g. Hotel Da Casa of Pune, GOA International, Cantor, Bogmalo of Goa, Kismat Hotel of GOA etc. Moreover, at every place of stay, they produced their AADHAR Card as identification documents for making entry in the visitors register. She was 17 ½ years at that time and left slip to communicate her mother.

5. Keeping in view the fact that petitioner is in judicial custody since 24.10.2018 and prosecutrix has been examined and trial will take substantial time, however, without commenting upon the merits of the case, petitioner

deserves bail.

6. Accordingly, petitioner shall be released on bail on his furnishing personal bond in the sum of ₹25,000/- with one surety of the like amount to the satisfaction of Trial Court.
7. Before parting with the order, it is relevant to mention that nothing contained in this order shall be construed as an expression on the merits of the case. The Trial Court shall not get influenced by the observations made by this Court, while passing the final orders in the trial.
8. The present petition is allowed and disposed of.
9. Order *dasti* under the signatures of Court Master.
10. Copy of this order be transmitted to the Jail Superintendent and the Trial Court concerned for compliance.

SURESH KUMAR KAIT, J

FEBRUARY 27, 2020

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