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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Order pronounced on 03.11.2022*

+ BAIL APPLN. 3555/2021

RIPUL SHARMA

..... Petitioner

Through: Mr. Pawan Sharma and Mr. Pardeep
Kumar, Advocates.

versus

THE STATE

.....Respondent

Through: Mr. N.S. Bajwa, APP with Mr.
Pramod Saigal, Advocate with SI
Rashmi, PS BHD Nagar.
Mr. Hemant Singh, Ms. Deepanshi
Sethi, Ms. Ruchika Sharma and Ms.
Seema Singh, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:

1. This is the second bail application moved by the accused/applicant in FIR No.382/2019 registered under Section 363/376 IPC and Section 4 of the POCSO Act at PS Baba Haridas Nagar.
2. The petitioner is stated to be in custody since 18.08.2019. His first bail application before this Court was dismissed vide order dated 03.03.2020.
- 2.1 In a nutshell, the allegation against the petitioner is that he became a friends with the victim/prosecutrix who was aged about 14-15 years at the time of the incident and, took her to Bahadurgarh on 06.08.2019 in the

afternoon at about 3:45 p.m., where he made physical relations with her at a restaurant.

2.2 On 16.08.2019, the prosecutrix disclosed the facts to her mother and an FIR was registered on 17.08.2019 and in pursuance thereto, the accused was arrested on 18.08.2019. Since then, he is in custody except for some interim period.

3. The bail has been prayed on the ground that the investigation is complete and charge sheet stands filed, so, the petitioner is not required for any further investigation; as per the locations shown in the CDR, the petitioner has not gone to any restaurant in Bahadurgarh; even as per the MLC, the prosecutrix was not subjected to any sexual assault; the FIR was registered at the instance of the family members of the prosecutrix; the petitioner is stated to be an M.Sc. in Horticulture and is an employee in Delhi; he has clean antecedents; the applicant also undertook to not misuse the liberty of bail and to not tamper with the evidence in any manner.

4. Notice was issued. Status Report has been filed.

4.1 In the Status Report, regarding the location of the accused, the following has been mentioned on the basis of the CDR and location chart, which has been attached with the Status Report:

“CDR and location of M. No. 9013500700 (accused) were also analyzed and it found that on 06 Aug 2019 at 1530 hrs the accused was at village haibatpura abadi known as Sainik Enclave, Jharoda kalan, New Delhi, another location of the accused at 1704 hrs was at opposite Anaj mandi, haibatpura Najafgarh, another location of accused at 1749 hrs was at Surajmal stadium, nangloi, Delhi, another location of the accused was at 1757 hrs DTC Shakoor Basti, Pitampura, Delhi.”

5. Notice was also issued to the prosecutrix who has filed a response, reiterating the contents of the FIR and the fact that the bail applications

moved by the petitioner at different times have been dismissed.

6. I have heard the learned counsel for the petitioner, learned APP for the State as well as learned counsel from Delhi High Court Legal Services Committee representing the prosecutrix.

6.1 It has been brought to my notice that evidence of the complainant and her parents is over. Uncertified copy of the examination-in-chief and cross-examination of the victim have been placed on record. This is not the stage to minutely examine the said evidence as the same will be done by the learned Trial Court at the time of finally deciding the matter.

6.2 The important point to be noted here is that as per the complainant, she had left her home on 06.08.2019 at 3:45 p.m. and she walked down to Evergreen School near to her residence, which was about 500 metres away. There she met the present petitioner, who forced her to sit on his motorbike and took her to a restaurant in Bahadurgarh where inside a room he had established physical relations with her. As per her Bahadurgarh was 5 to 10 kilometres away from Evergreen School.

6.3 This Court is aware of the fact that the victim was aged about 14-15 years at the relevant time. This part of the testimony of the present petitioner does not tally with the CDR and mobile location chart of the petitioner. As per the same, at about 3:30 p.m., on 06.08.2019, the accused was at Village Haibatpura Abadi known as Sainik Enclave and at about 5:04 p.m., he was at Anaj Mandi, Haibatpura, Najafgarh and at about 5:49 p.m., the accused was at Surajmal Stadium, Nangloi, Delhi, and thereafter, at about 5:57 p.m., he was at DTC, Shakoor Basti, Pitampura, Delhi.

7. The complainant has admitted in her statement before Court that Bahadurgarh may be about 5-10 kilometres away from Evergreen School.

She had earlier also visited Bahadurgarh as some relative lives there, however, when she was taken by the police for identification of the place of incident, she could not identify any such restaurant in Bahadurgarh.

8. The petitioner is in custody from the last more than three years. The victim and her parents have already been examined, so at this stage, there is no apprehension that the petitioner will influence the material witnesses. There are no criminal antecedents of the present petitioner. The trial will take a long time. The apprehension of the prosecution and the prosecutrix is that if the petitioner is released on bail, he may try to harass the victim or her family members.

9. Keeping all the above facts in view, I am inclined to grant bail to the petitioner. He is ordered to be released on bail on execution of personal bond of Rs.50,000/- with one surety of the like amount to the satisfaction of the learned Trial Court, subject to the following conditions:

- (i) He shall not try to contact, harass or threaten the victim and her family members and he shall not visit the locality in which the petitioner and her family members are residing;
- (ii) He shall share his mobile number with the IO within three days of his release and keep the mobile location on at all times;
- (iii) He shall furnish his current residential address to the IO and in case of any change, he shall immediately inform the IO regarding the change of his address;
- (iv) He shall attend the hearing before the learned Trial Court on each and every date when the matter is listed;
- (v) He shall not leave the jurisdiction of this Court without seeking written permission from the learned Trial Court;

(vi) He shall not indulge in any offence of similar nature during the period of bail.

10. The bail application is accordingly disposed of.

11. Copy of this order be sent to the learned Trial Court as well as to the Jail Superintendent for information and compliance.

TALWANT SINGH, J

NOVEMBER 03, 2022/pa

[Click here to check corrigendum, if any](#)

