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

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**RESERVED ON -09.05.2023
PRONOUNCED ON -11.05.2023**

+ BAIL APPLN. 35/2023

RAVINDER KUMAR

..... Petitioner

Through: Mr.Manu Sharma, Mr.Kunal Sharma
and Mr.Arjun Kakkar, Advocates

versus

THE STATE NCT OF DELHI AND ANR.

..... Respondents

Through: Mr.Amit Sahni, APP for the State.
WSI Mukesh, PS Ambedkar Nagar

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA,J:

1. Present petition has been filed under Section 439 Cr.P.C. seeking regular bail in FIR No.634/2021 dated 16.11.2021 registered under Section 376/506 IPC and Section 6 POCSO at PS Ambedkar Nagar, Delhi.
2. Briefly stated facts of the case are that the FIR was lodged on the statement of Ms.FK, it had been alleged that the complainant lives with her mother namely 'simranjit kaur' and younger sister and she studies in 7th class. Her father 'Tarandeep' died on 27th November, 2019 due to illness. After the death of her father, uncle Ravinder Kumar Yadav started visiting her house, whom her mother knew because she used to

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get medicines for her father's illness. She stated that she does not like Ravinder Kumar Yadav coming to their house and meeting her mother. On 2nd June 2020 around 6:00 p.m. he came to complainant's house to celebrate his birthday. The victim alleged that her mother had gone with her younger sister to buy cake and came back after about half an hour. In the meantime, she was alone at home with accused Ravinder Kumar Yadav who forcefully took off her clothes and forcefully put his private part in her private part and he also pressed the complainant's mouth with his hands and she could not scream because there was no tenant in their house during the lockdown. Complaint has also alleged that the petitioner threatened her that if she would tell this to anyone, he would do the same with her younger sister from which the complainant got scared and did not tell anything to her mother. Thereafter the petitioner left after celebrating his birthday. Due to this incident the victim had gone into depression and due to depression, she wanted to end her life.

3. Perusal of the file indicates that on 31.10.21 the victim Ms. "FK" was admitted in RML Hospital. During treatment she left without informing her mother and doctor on 6/11/2021 and a Case FIR No. 83/2021 dated 6/11/2021 U/S 363 IPC PS North Avenue was registered. Thereafter during Medical examination and statement U/S 164 Cr.P.C. the victim stated that on 2/6/2020 one Ravinder Kumar Yadav (Friend of her Mother) had raped her at her house. After investigation charge sheet was filed under Section 376/506 IPC and 6 POCSO Act.
4. The bail application filed before the learned trial court was dismissed vide order dated 22.12.2022 predominantly on the ground that the

allegations against the accused/petitioner are very serious in nature.

5. Mr. Manu Sharma, learned counsel for the petitioner has submitted that the petitioner is in custody since 18.11.2021. It has further been submitted that the victim and her mother have already been examined as PW1 and PW2. Mr. Manu Sharma, learned counsel has further submitted that the alleged act was committed on 02.06.2020 whereas the present FIR was lodged on 16.11.2021. Learned counsel submits that in fact the petitioner was admitted in RML Hospital for treatment and from there she ran away and a missing report was filed by the mother of the victim. During this, while her statement was recorded, the victim disclosed that she was undergoing treatment for depression and got admitted in RML hospital on 05.11.2021 and therefore the first time, the victim disclosed about the alleged incident that took place on 02.06.2020. Mr. Manu Sharma, learned counsel has submitted that PW2 i.e., mother of the victim has not supported the case of the prosecution and testimony of PW1 i.e., the victim has also certain inherent contradictions. Learned counsel for the petitioner submits that in-fact after the death of father of the victim, the petitioner/accused started visiting the house of the victim and the victim did not like the same. Learned counsel for petitioner submits that the victim is suffering from bipolar disease and during this period, the present FIR was lodged.
6. Learned APP has vehemently opposed the bail application and has submitted that the prosecutrix/victim has made specific allegation against the petitioner in the FIR as well as her statement under statement under Section 164 Cr.P.C. Learned APP has submitted that

even in the statement before the court, the prosecutrix has made serious allegations against the petitioner.

7. I have considered the submissions.
8. The law regarding bail is a very well settled. The jurisprudence is more than clear on the point that ordinarily, bail should be granted unless there are exceptional circumstances. The detention during trial cannot be made as punitive detention. The material facts which are required to be considered while granting the bail are the gravity of the offence, possibility of accused being fleeing away from justice, possibility of threatening or intimidating the witnesses or possibility of commission of any other offence. There may also be other numerous reasons depending on the facts and circumstances of the case. However, every case has to be taken on its own facts. The facts in the present case are really serious in nature where a minor girl has alleged the allegation of rape upon her by the petitioner. It is a settled proposition that at the stage of bail, the court cannot go into the detailed examination of the facts. The appreciation of evidence or making any comment at the stage of bail may also prejudice the prosecution or the accused. At the stage of bail, the court is only to take a prima facie view. It is a matter of record that the alleged incident had taken place in June, 2020 and the FIR was lodged in November, 2021. There is a delay of around 1 year and 5 months in registration of the case. During this period, unfortunately, the victim was suffering under depression. The victim has already been examined.
9. However, without making any expression of the merits of the case and taking into totality of the facts and circumstances of the case, the

petitioner is admitted to bail on his furnishing personal bond in the sum of Rs.25,000/- with two sureties of the like amount to satisfaction of the trial court, subject to the following conditions:

- a) the petitioner shall not travel abroad; without the prior permission of the court concerned;
 - b) The petitioner shall not visit the locality where the victim is residing nor shall he make any attempt to contact her in any manner;
 - c) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
 - d) the petitioner shall provide his mobile number(s) to the Investigating officer/Police Officer In Charge of the case and keep it operational at all times;
 - e) the petitioner shall co-operate in the investigation and appear before the investigation officer/ police officer in charge of the case as and when required;
 - f) in case of change of residential address and/or mobile number, the petitioner shall intimate the same to the Police Officer In Charge of the case / Court concerned by way of an affidavit.
10. With the above directions, the petition stands disposed of.
11. Copy of the order to be sent to the concerned Jail Superintendent for information and necessary compliance.

DINESH KUMAR SHARMA, J

MAY 11, 2023/rb

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