



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

Reserved on : 04.05.2023

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Pronounced on : 31.05.2023

+ **BAIL APPLN. 510/2020 AND CRL.M.A. 3881/2020**

BABLU

..... Petitioner

Through: Mr. Anurag Ojha, Mr. Gautam Barnwal and Mr. Karan Aggarwal, Advocates.

versus

STATE & ANR.

..... Respondents

Through: Ms. Priyanka Dalal, APP for the State with SI Sunny Khatri, PS Vijay Vihar.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. This is a petition filed by the petitioner under Section 439 Cr.P.C. seeking regular bail case FIR No.210/2019, under Sections 376/506/511 IPC and Sections 6/12 of POCSO Act registered at PS Vijay Vihar.

2. In brief the facts of the case are that on 03.08.2019, the victim and her younger brother were at home when the petitioner, namely, Bablu who is the *mama* (Maternal uncle) of the victim sent the younger brother of victim to get some money from one Kalu bhaiya. After younger brother of victim left, the petitioner was alone at home with the victim, he started removing



his clothes and also undressed the victim. It is alleged that the petitioner laid on her, inserted his finger into her private part and when she asked him to stop otherwise, she will tell her mother, the petitioner threatened to kill her and thereafter, left the spot. Subsequently, FIR No. 210/2019, under Sections 376/506/511 IPC and Sections 6/12 of POCSO Act was got registered at PS Vijay Vihar.

3. I have heard the learned counsel for the petitioner, learned APP for the State and perused the status report filed by the State.

4. It is submitted by the learned counsel for the petitioner that the petitioner has been falsely implicated in this case and is in judicial custody since 07.08.2019. He submitted that there is no material produced except the testimony of the victim to show that the victim was home alone and the petitioner was present at the spot of incident. He further submitted that the father of the victim does not work and the same proves that the victim was not alone at home at the time of alleged incident as her father must also be present at home. Ld. counsel for the petitioner submitted that petitioner who works as a *Dhobi*/washerman is the sole bread earner of the family and trial would take a long time to conclude so no purpose will be served by keeping him in judicial custody.

5. On the other hand, learned APP vehemently opposed the bail application and has argued on the lines of the status report. She submitted that the allegations are grave and serious in nature and the victim who was only 6 years of age at the time of incident has supported the case in view of her statement recorded under section 164 Cr.P.C and has levelled specific allegations against the petitioner. She further submitted that even if as per



the statement of mother of the victim the father of victim does not work, it doesn't mean that he puts up at home and therefore, the contention that the father was present at home during the alleged incident raised by the counsel for the petitioner is baseless as it was neither raised by the petitioner during evidence nor did he cross-examine the victim or any other witness on this aspect.

6. In the instant case, the allegations against the petitioner are grave and serious in nature. The victim (PW-1) and her mother (PW-2) in their testimony recoded in the court have fully supported their case. The perusal of the same shows that the victim has levelled specific allegations against the petitioner of removing her clothes, inserting his finger into her private part and threatening to kill her.

7. As far as the discrepancy regarding the presence of the father of victim at home during the alleged incident, the same is a matter of trial and cannot be decided at this stage.

8. Keeping in view the facts and circumstances of this case and the minority of victim at the time of the alleged offence coupled with serious allegations against the petitioner who is the maternal uncle (*mama*) of the victim, no benefit can be given to him at this stage and the bail application along with pending application (if any) is, therefore, dismissed.

9. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

RAJNISH BHATNAGAR, J

MAY 31, 2023/_p

BAIL APPLN. 510/2020

Page 3 of 3