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

+ **BAIL APPLN. 2048/2023**

G ARUN

..... Petitioner

Through: Mr. Swaty Singh Malik and Mr.
Rohan Kumar, Advs. for applicant.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Amit Sahni, APP for the State
and SI Sangeeta Malik, Main IO, PS
Model Town and SI Priyanka, PS
Subhash Place.

Mr. Siddharth Luthra, Sr. Adv. with
Mr. Anish Ram Dabas, Ms. Shreya S.
Dabas, Mr. Lakshya Raj Singh, Mr.
Sarthak Karol and Mr. Ayush Anand,
Advs.

+ **BAIL APPLN. 1518/2023 & CRL.M.A. 13198/2023**

17 **RAMESH**

..... Petitioner

Through: Mr. Harsh Vardhan Sharma, Mr.
Neeraj Kumar, Mr. Vinay Bhaskar,
Mr. Harsh Gupta and Mr. Shaksham
Gupta, Advs.

versus

STATE OF NCT DELHI

..... Respondent

Through: Mr. Amit Sahni, APP for the State
and SI Sangeeta Malik, Main IO, PS
Model Town and SI Priyanka, PS
Subhash Place.

Mr. Siddharth Luthra, Sr. Adv. with
Mr. Anish Ram Dabas, Ms. Shreya S.
Dabas, Mr. Lakshya Raj Singh, Mr.



Sarthak Karol and Mr. Ayush Anand,
Advs.

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Date of Decision: 18.07.2023.

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

BAIL APPLN. 2048/2023

1. The present application has been filed seeking regular bail in case FIR No. 299/2023 under Sections 323/354 IPC read with Section 8 of the POCSO Act registered at PS Subhash Place.
2. Learned counsel for the petitioner submits that in fact, it was a dispute between two families and the present FIR has been lodged at the instance of the parents of the prosecutrix only to attribute the provisions of the POCSO Act 2012. Learned counsel for the petitioner submits that the accused is in custody since 08.04.2022.
3. Learned counsel for the petitioner further submits that the charge-sheet has already been filed. It has been submitted that the accused is of 34 years of age and is yet to settle down in the family.
4. It has further been submitted that the trial will take a long time and therefore the petitioner may be admitted to bail.
5. Mr. Siddhrath Luthra, learned senior counsel along with Mr. Anish Ram Dabas, learned counsel has vehemently opposed the grant of



bail to the petitioner.

6. Learned senior counsel submits that the petitioner has duly been named in the FIR. Learned senior counsel further submits that it is preposterous on the part of the petitioner to say that the minor child was used as a pawn to attribute the offence punishable under Section 8 of the POCSO Act.
7. Learned senior counsel submits that though the charge-sheet has been filed still there is a possibility of threatening or intimidating the witness.
8. Learned APP for the State has also opposed the application on the ground that the offence is serious in nature and therefore bail may not be granted.
9. The perusal of the FIR indicates that allegedly on the date of incident, two persons came to the house of the prosecutrix and called her mother, the mother of the prosecutrix objected to the same, and thereafter those two persons started beating the mother of the prosecutrix. The complainant specifically stated that one of them was Ramesh and she does not know the name of the other person. It has further been stated in the complaint that one of them was wearing a white T-shirt. It was further alleged that when the complainant tried to intervene the person wearing the white shirt he molested her and pressed her breasts and also gave a fist blow on her eyes. The complainant also alleged that they also gave beatings to her father.



10. It is a matter of record that the accused is in custody since 08.04.2023. There is nothing on the record to indicate that the petitioner is involved in any other case.
11. The jurisprudence regarding the grant of bail is very well settled. The detention period during the trial cannot be taken as a punitive measure. The principles regarding the grant of bail in serious offence cases have been dealt with in **Kalyan Chandra Sarkar v. Rajesh Ranjan**, 2004 SCC 7 528 it was *inter-alia* held that:

“11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.



(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge.”

12. In the present case though the allegations are serious in nature, but it is a matter of record that the accused has not been named in the F.I.R. The charge-sheet has already been filed.
13. I consider that without making any comments on the merits of the case and taking into account the period of detention and the allegations in the complaint, the petitioner is admitted to court bail on furnishing a personal bond of Rs. 10,000/- (Rupees Ten Thousand Only) with one surety of like amount subject to the satisfaction of the learned Trial Court subject to the following conditions:
 1. the Applicant shall not directly or indirectly make any inducement, threat or promise to any person/witnesses acquainted with the facts of the case;
 2. the Applicant shall not visit the locality where the complainant and the members of her family are residing.
 3. the Applicant shall under no circumstances leave India without prior permission of the Court concerned;
 4. the Applicant shall provide his mobile number(s) to the Investigating Officer and keep it operational at all times; and



5. In case of a change of residential address and/or mobile number, the Applicant shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.
14. In view of the submissions made, the application stands disposed of.
15. Copy of this order be given *dasti*.
16. Copy of this order be sent to the concerned Jail Superintendent.

BAIL APPLN. 1518/2023

17. The present application has been filed seeking anticipatory bail in Case FIR No. 299/2023 under Sections 354/323 IPC read with Section 8 POCSO Act registered at PS Subhash Place.
18. In the present case, the interim bail was granted to the applicant vide order dated 09.05.2023.
19. Learned counsel for the petitioner submits that in fact, it was a dispute between two families and the present FIR has been lodged at the instance of the parents of the prosecutrix only to attribute the provisions of the POCSO Act 2012. Learned counsel further submits that the charge-sheet has already been filed.
20. Learned APP for the state on instructions states that the petitioner has duly joined the investigation and the charge-sheet has been



filed.

21. Mr. Siddhrath Luthra, learned senior counsel for the respondent has opposed the grant of anticipatory bail and submitted that the applicant was specifically named in the FIR and therefore his case stands on a different footing.
22. The perusal of the FIR indicates that allegedly on the date of the incident, two persons came to the house of the prosecutrix and called her mother, the mother of the prosecutrix objected to the same, and thereafter those two persons started beating the mother of the prosecutrix. The complainant specifically stated that one of them was Ramesh and she does not know the name of the other person. It has further been stated in the complaint that one of them was wearing a white T-shirt. It was further alleged that when the complainant tried to intervene the person wearing the white shirt molested her and pressed her breasts and also gave a feast blow to her eyes. The complainant also alleged that they also gave beatings to her father.
23. Mr. Siddharth Luthra, learned senior counsel has invited the attention of the court to the fact that towards the fact that the wife of the applicant lodged a false FIR No. 327/2023 under Sections 354/506/323/341/509/34 IPC registered at PS Subhash Place, against the complainant party.
24. Learned senior counsel submits that this amounts to threatening or intimidating the witness. Hence anticipatory bail may not be



made.

25. This court considers that it would be inappropriate to make any comment regarding the veracity of the present FIR. It is for the learned Trial Court to decide it at an appropriate stage. However in view of the serious allegations made and the fact the charge-sheet has already been filed, the petitioner may move an application for regular bail before the learned Trial Court.
26. Learned Trial Court shall decide the same in accordance with the law without being influenced by the orders of this court. However, till the time the application for regular bail is decided by the learned Trial Court, the interim bail granted to the petitioner is extended till the disposal of the said regular bail application.



DINESH KUMAR SHARMA, J

JULY 18, 2023/AR

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