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

% *Judgment reserved on: 26th July, 2023*
Judgment delivered on: 28th July, 2023

+ **BAIL APPLN. 1979/2023**

VIVEK KUMAR GUPTA Petitioner
 Through: Mr. S.S. Rawat, Advocate.

versus

THE STATE OF NCT OF DELHI Respondent
 Through: Mr. Pradeep Gahalot, APP for the
 State.
 SI Vivek Kumar Gupta and SI Babita,
 PS Mandawali.
 Prosecutrix in person

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

JUDGMENT

AMIT BANSAL, J.

1. By way of the present application, the petitioner seeks regular bail in FIR No.253/2023 under Sections 354D/376/509 of Indian Penal Code, 1860 (IPC) registered at Police Station Mandawali, Delhi.
2. Brief facts of the case are as under:
 - i. The applicant, being a young boy of 21 years of age, has been a friend of the victim's brother from the year 2021 and since then, the complainant/victim, her brother and the applicant used to visit each other's house.

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- ii. During the period of Covid-19 pandemic, the family of the complainant/victim was facing financial issues and at that time, the complainant and her brother approached the applicant for financial help of Rs.1,00,000/-.
 - iii. The applicant gave a total amount of Rs.72,000/- and the complainant and her family members assured that this amount will be returned within four to five months.
 - iv. In July and December, 2022, when the applicant asked the complainant and her family members to return the money, the complainant and her family members stopped taking the phone calls of the applicant and furthermore, blocked his number.
 - v. Thereafter, the present FIR was registered on 10th May, 2023.
3. Counsel for the applicant submits that the complainant has made contradictory statements under Section 161 and 164 of the Code of Criminal Procedure, 1973 (CrPC). In her statement under Section 164 of the CrPC, the complainant has denied being sexually assaulted by the applicant.
4. Learned APP appearing for the State, on the other hand, submits that the complainant was only 16 years of age at the time of the incident and clear allegations have been made against the applicant in the FIR.
5. Pursuant to the notice issued by the Court, the complainant, who has attained the age of majority as on date, is present in Court and does not support the case of the prosecution. She states that there was no physical relation between her and the petitioner.
6. I have heard the submissions of the parties and perused the material on record.
7. The applicant in this case is a young boy of 21 years of age. He has

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already been in custody for over two months and the Charge Sheet has already been filed. The trial is likely to take some time. Further, as per the Nominal Report placed on record, his conduct has been satisfactory. It has also not been disputed that he is a person of clean antecedents.

8. Considering the overall facts and circumstances of the case and taking note of the statement of the complainant under Section 164 of CrPC along with the statement made by the complainant in Court today, the Court deems it fit to grant bail to the applicant. It is therefore directed that the applicant be enlarged on bail pending decision in the trial on his furnishing a personal bond in the sum of Rs.50,000/- with one surety of like amount, subject to the satisfaction of the Trial Court. The bail is granted subject to the following conditions:

- i. The petitioner shall not visit the vicinity of the complainant.
- ii. The applicant shall not leave the country without the prior permission of the Court.
- iii. The applicant shall appear before the Trial Court as and when the matter is taken up for hearing.
- iv. The applicant shall provide his latest/fresh mobile numbers to the IO concerned, which shall be kept in working condition at all times and shall not switch off or change the mobile number(s) without prior intimation to the IO concerned. The petitioner shall keep his live location on at all times.
- v. The applicant shall provide his permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in his residential address.

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- vi. The applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses or tamper with the evidence of the case.
9. Needless to state that any observations made herein are purely for the purposes of deciding the question of grant of bail and nothing herein shall be construed as an expression on the merits of the case.
10. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
11. Accordingly, the petition is disposed of.

AMIT BANSAL, J.

JULY 28, 2023

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