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

+ **BAIL APPLN. 2028/2023**

PRINCE NAGAR

..... Petitioner

Through: Mr. Vikas S. Singh, Adv. through v/c.

versus

THE STATE

..... Respondent

Through: Mr. Hemant Mehla, APP for State and ACP Ram Phool Meena, ACP/ Badarpur alongwith SI Madhu Yadav. Mr. Harshit Jain, Adv. (DHCLSC) for complainant.

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Date of Decision: 25.07.2023.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present application has been moved seeking grant of bail in case FIR No. 129/2023 under Section 323/341/354(D)/506/509 IPC read with Section 12 of POCSO Act and Sections 3(1)(r)/3(1)(s) SC & ST Act registered at PS Jait Pur.
2. The case FIR was lodged by Ms. XXX alleging therein that few days before the registration of the case the petitioner had offered to befriend her which was declined by the complainant. The complainant also blocked the petitioner on Instagram. It was further stated that

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before the registration of the present FIR, while the complainant was going to the school, petitioner was sitting in the *gali* and abused her in a filthy manner. Two days later, when the complainant was going to her friend's house, the petitioner intercepted the complainant and slapped and abused her. When the complainant asked the reason for slapping, the petitioner made the casteist remark and threatened her to leave or else he will give her more beating. After this incident, the FIR No.129/2023 was lodged at PS Jait Pur.

3. Learned counsel for the petitioner submits that the petitioner is only 19 years old and is in custody since April 2023. It has also been submitted that there is a previous enmity between the families of the complainant and the petitioner and certain FIR was lodged against each other. Learned counsel submits that earlier the family of the prosecutrix implicated the father and uncle of the applicant in a similar false case in FIR No. 106/2021 under Section 3 of SC/ST Act registered at PS Jait Pur. There is another FIR lodged by the sister of the applicant against cousins of the prosecutrix bearing FIR No. 134/2021 for the offence punishable under Sections 8 and 12 of the POCSO Act and Section 354/354A/34 IPC registered at PS Jait Pur.
4. Learned APP for the state has opposed the bail application and has submitted that the petitioner has made serious casteist remark. It has further been submitted that the petitioner also slapped the prosecutrix and the allegations are serious in nature. It has also been submitted that there is possibility that if the petitioner is released on bail, he may threaten or intimidate the witnesses.



5. Mr. Harshit Jain, learned counsel for the victim from DHCLSC has also opposed the bail application on the ground that the charges are yet to be framed.
6. The bail during trial cannot be taken as a punitive measure. Grounds on which the bails is to be considered are the prima facie case, the possibility of the accused being away from the cause of the justice and possibility of the intimidating or threatening the witnesses. The court at the stage of bail cannot examine the facts meticulously nor can it check the probative value of the witnesses. It is a matter of record that there is a history of enmity between the family of the complainant and the petitioner. I have perused the FIR, according to which, the petitioner is only 20 years of age. I consider that since the charge-sheet has already been filed, the trial may take a long time. The accused is in custody since April, 2023.
7. Thus, taking into account the totality of the facts and circumstances of the case, the petitioner is admitted to court bail on furnishing a personal bond of Rs. 15,000/- with one like amount of surety to the satisfaction of learned Trial Court subject to the following conditions:
 - a. Petitioner shall not threaten, intimidate or contact the prosecution witnesses nor even visit the locality where the victim or her family is residing.
 - b. The petitioner shall report to the IO on every Thursday at 05:00 PM till the conclusion of the trial.
 - c. The petitioner shall disclose his mobile number and residential address to the court and shall intimate in case there is any change in



the residential address.

8. The learned trial court may also impose any further condition as suitable for procuring the presence of the accused during the trial.
9. The petition stands disposed of.
10. Copy of this order be sent to the concerned Jail Superintendent.

DINESH KUMAR SHARMA, J

JULY 25, 2023/AR