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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2953/2022

SHER KHAN

..... Petitioner

Through: Ms.Swati Verma, Advocate

versus

STATE (GOVT. OF NCT OF DELHI) & ANR. Respondents

Through: Ms.Shubhi Gupta, APP for the State
Insp.Dharmender Kumar and
SI Sangeeta, PS Jahangir Puri.

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Date of Decision: 31.07.2023

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 filed under section 439 Cr.P.C seeking a grant of regular bail in FIR No. 35/2021 under Sections 363 IPC registered at PS Jahangir Puri, Delhi.
2. Brief Facts of the case are that the present FIR was lodged on the statement of the mother of the prosecutrix who reported the missing of her daughter "K" and stated that her daughter left home at around 9:30 AM on 20.01.21 and based on her statement, the present case was registered.

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3. The supplementary chargesheet has also been filed.
4. Learned counsel for the petitioner submits that the petitioner is in custody since 12.03.2021. It has further been submitted that the prosecutrix has already been examined. Learned counsel submits that the age of the prosecutrix as per the ossification report was between 17 to 18 years as of September, 2021. Learned counsel for the petitioner further submits that if the two-year margin is taken into account, the age of the prosecutrix is on the higher side on the date of the alleged offence, i.e. was 18 years and therefore the petitioner may be admitted to bail.
5. Learned APP has submitted that the offence is serious in nature and if the accused is released on bail, he may abscond. However, learned Additional PP submits that as per his instructions the victim is now married and settled peacefully.
6. The accused in the present case is in custody since 12.03.2021. It is a matter of record that the prosecutrix has already been examined. I have gone through the statement under Section 164 Cr.P.C. of the prosecutrix where she has stated that she had gone with the petitioner at her own free will and had consensual sexual relations with the petitioner.
7. It is a matter of record that there is no proof of date of birth and therefore ossification test was conducted and as per the ossification



test, the age of the prosecutrix was between 17 to 18 years in September, 2021. The period of offence in the present case is somewhere in January, 2021 onwards.

8. Thus, taking into account the totality of the facts and circumstances of the case, without making any expression on the merits of the case, the petitioner is admitted to regular bail on furnishing bail bond in the sum of Rs.15,000/- with one surety of the like amount to the satisfaction of the trial court subject to the following conditions:
 - a. the Petitioner shall attend the trial regularly
 - b. the Petitioner shall under no circumstances leave India without prior permission of the Court concerned;
 - c. the Petitioner shall not directly or indirectly make any inducement, threat or promise to prosecutrix/victim or any person acquainted with the facts of the case;
 - d. the Petitioner shall provide his/her mobile number(s) to the Investigating Officer.
 - e. In case of change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.
9. Petition stands disposed of.
10. Copy of the order be sent to the concerned Jail Superintendent for information and necessary compliance.



11. Order *Dasti*

DINESH KUMAR SHARMA, J

JULY 31, 2023/rb

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