



\$~2

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ BAIL APPLN. 83/2024

AJAY VERMA

..... Petitioner

Through: Mr. Hirein Sharma, Mr. Birender Kumar Pandey, Mr. Saurabh Goel, Mr. Santosh Kumar, Mr. Neetish Kumar Pandey and Mr. Vimal Tyagi, Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Sanjeev Sabharwal, APP for State Ms. Astha, Advocate (DHCLSC) for prosecutrix.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

%

21.03.2024

1. By way of present bail application filed under Section 439 Cr.P.C., the applicant seeks regular bail in FIR No. 343/2018 registered under Sections 376/34 IPC read with Section 4 of the POCSO Act at P.S. Okhla Industrial Area, New Delhi.
2. Learned counsel for the applicant states that in her complaint, the prosecutrix stated that the present applicant alongwith one Shatru had committed the offence of rape upon her. However, at the time of her MLC, she denied the incident and refused her medical examination. Learned counsel further submits that again, in her examination in chief, she supported the prosecution case but during her cross examination conducted on 19.02.2020, she stated that the present applicant never committed any penetrative sexual assault upon her. Prosecutrix's further stated that she had



not given any statement to the police. Learned counsel further submits that co-accused Shatru has already been released on regular bail. Lastly, it is submitted that the applicant is in custody since 21.08.2018 and till date only 5 out of 25 witnesses have been examined including all the material witnesses i.e. the prosecutrix and her father.

3. Mr. Sabharwal, learned APP for the State, who is assisted by Ms. Astha, counsel for the prosecutrix, has opposed the bail application. He submits that the prosecutrix was a minor and she has supported the prosecution case during her examination-in-chief. He also submits that the DNA report, received from the Forensic Department, has also supported the prosecution case.

4. At the time of consideration of bail, the Court is not to evaluate the entire testimony in detail which would be a subject matter of trial. However, at this stage, it is pertinent to note that during her cross-examination, the prosecutrix had unambiguously stated that present applicant is not the one who has committed penetrative sexual assault upon her. Prosecutrix was re-examined by the learned APP and she denied the suggestion. Looking into the period of custody and the further fact that all the material witnesses stand examined, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/ concerned Court/Duty M.M. and subject to the following further conditions :-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
- ii) The applicant shall provide his mobile number to the Investigating



Officer on which he will remain available during the pendency of the trial.

iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.

iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.

v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.

5. The bail application is disposed of in the above terms.

6. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.

7. Copy of the order be uploaded on the website forthwith.

8. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

MARCH 21, 2024

ga