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

+ **BAIL APPLN. 150/2024**

SHIV SHANKAR SINHA @ MOHIT

.....Petitioner

Through: Mr. Sanchit Sehgal and Mr. Nagendra
Singh, Advocates.

versus

THE STATE OF DELHI

.....Respondent

Through: Mr. Tarang Srivastava, APP for the
State.
W/SI Ing Kumnaro, PS New Ashok
Nagar.
Mr. Nitin Saluja, (DHCLSC) with
Ms. Sanskriti Bansal, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

25.07.2024

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1. Petitioner has approached this Court seeking bail in FIR No.125/2023, dated 08.04.2023, registered at Police Station New Ashok Vihar for offences under Sections 354/354(A) IPC and Section 8 of the POCSO Act.
2. The facts, as stated by the prosecution, are that a PCR call *vide* DD No. 84A was received at Police Station New Ashok Vihar on 07.04.2023 regarding molestation and sexual harassment of the Prosecutrix herein, who was 15 years old at the time of the incident. It is stated that on 08.04.2023, the Prosecutrix and her mother came to the Police Station and gave a handwritten complaint wherein the Prosecutrix has alleged that on 07.04.2023 when she went to market, she was caught by the Petitioner

BAIL APPLN. 150/2024

Page 1 of 5



herein and was toppled on the road by the Petitioner. It is stated that the Petitioner herein laid upon her and started sexually harassing and kissing her on the road. On the complaint of the Prosecutrix, the instant FIR was registered. The Petitioner was arrested on 08.04.2023. On 12.04.2023 statement of the Prosecutrix under Section 164 CrPC was recorded wherein she has supported her version given in the FIR. It is stated that during investigation CCTV footage of the area was obtained wherein it could be seen that the Petitioner has molested the Prosecutrix. Charge-sheet has been filed against the Petitioner on 08.06.2023.

3. Petitioner filed an application for bail before the Trial Court which was rejected. The Petitioner has, thereafter, approached this Court for grant of Bail.

4. The age of the Prosecutrix at the time of the incident was 15 years. Charges have been framed and the Prosecutrix has been examined and discharged.

5. It is the contention of the learned Counsel for the Petitioner that the Petitioner is in custody for one year and three months now. He states that the charge-sheet has been filed and now there is no threat of Petitioner tampering with evidence and, therefore, no purpose would be served in keeping the Petitioner in further incarceration.

6. *Per contra*, learned APP for the State contends that the Petitioner is accused of an offence under Section 8 of the POCSO Act. He states that the Petitioner and the Prosecutrix reside in the same area and if enlarged on bail, the Petitioner might threaten the Prosecutrix and the witnesses and, therefore, the Petitioner ought not be given bail.

7. Heard the Counsels for the parties and perused the material on record.



8. In Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496, the Supreme Court has laid down the parameters for granting or refusing the grant of bail which are as under:

- “i. whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
- ii. nature and gravity of the accusation;*
- iii. severity of the punishment in the event of conviction;*
- iv. Danger of the accused absconding or fleeing, if released on bail;*
- v. character, behavior, means, position and standing of the accused;*
- vi. Likelihood of the offence being repeated;*
- vii. Reasonable apprehension of the witnesses being influenced; and*
- viii. Danger, of course, of justice being thwarted by grant of bail.”*

9. Applying the law laid down by the Apex Court in this case, it can be seen that charge-sheet has been filed and charges have been framed against the Petitioner. The Prosecutrix has been examined and discharged by the Trial Court.

10. The Petitioner is accused of an offence under Section 8 of the POCSO Act and if convicted the Petitioner can be imprisoned for three to five years. Considering the fact that the Petitioner has already undergone one year and three months of incarceration, which is a good portion of the total amount of sentence that can be given to the Petitioner if he is convicted, this Court is of the opinion that it would not be prudent to keep the Petitioner behind bars further at this stage. The Petitioner is a youngster of about 21 years and there are chances that he will come out as a hardened criminal if he stays in jail for



a long time.

11. In view of the facts and circumstances of the case, this Court is of the opinion that the Petitioner cannot be made to languish behind bars for a longer period of time, and that the veracity of the allegations levelled against him can be tested during trial.

12. Accordingly, this Court is inclined to grant bail to the Petitioner on the following conditions:

- a) The Petitioner shall furnish security in the sum of ₹1,00,000/- with two sureties of the like amount to the satisfaction of the Trial Court/Duty Magistrate.
- b) The Petitioner shall not leave NCT of Delhi without prior permission of the concerned Court.
- c) The petitioner is directed to attend all the proceedings before the Trial Court.
- d) The Petitioner shall report to the concerned Police Station every Wednesday at 10:00 AM and he should be released after completing all the formalities within an hour.
- e) The Petitioner is directed to give his mobile numbers to the Investigating Officer and keep them operational at all times.
- f) The Petitioner shall not reside in the same locality as the Prosecutrix till the conclusion of trial.
- g) The Petitioner shall not contact the Prosecutrix or any other witnesses till the completion of trial.
- h) The Petitioner shall not, directly or indirectly, tamper with evidence or try to influence the witnesses.



- i) Violation of any of these conditions will result in the cancellation of the bail given to the petitioner.

13. It is made clear that the observations made in this Order are only for the purpose of grant of bail and cannot be taken into consideration during the trial.

14. With these directions, the bail application is disposed of along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

JULY 25, 2024

Rahul