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

+ **BAIL APPLN. 226/2024 & CRL.M.A. 12083/2024**

AMIT CHANDRA

..... Petitioner

Through: Mr. Aditya Aggarwal and Ms. Pooja Roy, Advocates

versus

STATE AND ANR.

..... Respondents

Through: Ms. Shubhi Gupta, APP for State with SI Priya, PS: Palam Village.

Mr. Faraz Maqbool, Advocate for R-2 along with R-2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

14.05.2024

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1. This application has been preferred on behalf of the applicant Amit Chandra S/o Roop Chandra under Section 439 Cr.P.C. seeking regular bail in case FIR No.81/2021 dated 27.02.2021 registered under Section 376 IPC at PS: Palam Village. Charge Sheet has been filed under Sections 376/417/493/495/496 IPC and thereafter, Section 6 of Protection of Children from Sexual Offences Act, 2012 ('POCSO Act') has been added in the Supplementary Charge Sheet.
2. Status Report has been filed on behalf of the State.
3. Case of the prosecution is that on 27.02.2021, two complainants came to the Police Station and one of them gave a written complaint alleging that the applicant met the complainant in November, 2017 and took her to Agra in the month of December, 2017, where he entered into physical relation



with the prosecutrix after he put vermilion on her forehead. He assured the complainant that he would marry her as soon as they came back to Delhi. He also made an objectionable video in the hotel at Agra. On return to Delhi, the applicant did not marry her as promised, but continued to have physical relations with her repeatedly. The complainant became pregnant thrice and finally gave birth to a male child in September, 2020 but the applicant neither married her nor took care of the child. To the shock of the complainant, she later realized that the applicant was married after which the complaint was lodged.

4. It is stated in the Status Report that medical examination of the prosecutrix was conducted at DDU Hospital on 27.02.2021 and the entire history is recorded in the MLC. During investigation, medical examination of the son of the prosecutrix was also conducted and blood sample was taken. From the FSL Report, it is established that the child is the biological child of the applicant.

5. Learned counsel for the applicant urges that the applicant is innocent and has been falsely implicated in the present case as the allegations of rape are an afterthought. Prosecutrix and the applicant were in a consensual relationship from 2017. Ingredients of Section 6 of POCSO Act are not made out as the prosecutrix was 22 years of age at the time of alleged incident, which is proved from the cross-examination of the complainant, where she categorically deposed that she was born in the year 2000 and had mentioned a wrong date of birth in the Aadhar Card since she wanted to take up a beauty course. Prosecutrix was completely aware that the applicant was already married and this is reflected from her own statement made before the Police, when attempts were being made to reconcile the disputes. It is



submitted that the applicant is in judicial custody since 01.03.2021 for no fault of his. Prosecutrix has been examined and no other material witness remains to be examined. Trial is not likely to conclude soon and since it is not the case of prosecution that the applicant is a flight risk, no purpose will be achieved in continuing the applicant in custody.

6. Learned APP opposes the application on the ground that the allegations against the applicant are serious. Applicant had physical relations with the prosecutrix repeatedly on the false pretext of marriage and forensic report has established that applicant is the biological father of the male child born to the prosecutrix.

7. Learned counsel for the complainant, on the other hand, on instructions from the complainant, who is present in Court, states that she has no objection to the applicant being released on bail as she does not want to pursue her complaint.

8. Heard learned counsels for the applicant and complainant and learned APP for the State.

9. Applicant is in judicial custody since 01.03.2021. The prosecutrix has been examined and admittedly, no material witness remains to be examined. Prosecutrix has taken a categorical position that she has no objection to bail being granted to the applicant. As the material witness has been examined, there is no likelihood of the applicant tampering with evidence or threatening/intimidating any witness. It is not the case of the prosecution that applicant is a flight risk. Trial is not likely to conclude soon.

10. In the aforesaid facts and circumstances and without adverting to the merits of the case and commenting thereon, it is directed that applicant shall be released on bail, subject to furnishing a personal bond in the sum of



Rs.50,000/- with one surety of the like amount to the satisfaction of the Trial Court and further subject to the following conditions:-

- i. Applicant shall not leave the country without prior permission of the Trial Court;
 - ii. He shall provide his mobile number to the IO concerned and keep the same active at all times and shall not change the number without prior intimation to the IO and the Trial Court;
 - iii. He shall furnish his permanent residential address to the concerned IO and shall intimate the IO as well as the Trial Court by filing an affidavit regarding any change in his residential address;
 - iv. He shall appear before the Trial Court as and when the matter is taken up; and
 - v. He shall not indulge in any criminal activity directly or indirectly or attempt to contact the prosecutrix or any other witness associated with the present case.
11. It is made clear that nothing stated in this order shall tantamount to expression of an opinion on merits of the case.
12. Bail application stands disposed of. Pending application also stands disposed of.
13. Copy of the order be sent to the concerned Jail Superintendent for information and necessary compliance.

JYOTI SINGH, J

MAY 14, 2024/kks