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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 236/2024**

MUKUL

.....Applicant
Through: Ms. Nandita Gupta,
Mr. Rakesh Joshi &
Mr. Anirudh Gupta,
Advocates

versus

THE STATE GOVT. OF NCT OF DELHIRespondent
Through: Mr. Ajay Vikram Singh,
APP with Ms. Neelam,
Mr. Sumeet Tanwar,
Ms. Sheetal Tanwar,
Mr. Aditya Sharma, Mr.
Naveen Chauhan &
Ms. Purvi Jalan,
Advocates for the State
with SI Soni, PS
Ambedkar Nagar.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
23.07.2024

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1. The present bail application is filed seeking pre-arrest bail in FIR No. 481/2023, under Sections 509/435 of the Indian Penal Code, 1860 ('IPC') and Section 12 of the Protection of Children from Sexual Offences Act, 2012 ('**POCSO Act**'), registered at Police Station Ambedkar Nagar.
2. The offences under Section 509/435 of the IPC are bailable.
3. The learned counsel for the applicant submits that the parties being neighbours are involved in multiple litigations. He submits that false allegations have been made against the applicant and he has been unnecessarily implicated solely on the

BAIL APPLN. 236/2024

Page 1 of 3



basis of the statement given by the mother of the victim.

4. The FIR was registered on a complaint given by the mother of the victim. It is alleged that the applicant and co-accused namely, Naresh had slapped the daughter of the complainant on her face. The allegation at this stage does not point towards any sexual harassment on the child.

5. The sexual harassment is defined in Section 11 of the POCSO. A person is said to commit the sexual harassment upon the child when the alleged act is committed with sexual intent. From the perusal of the complaint, it is apparent that no allegation is made by the complainant that the act was done with any sexual intentions.

6. It was noted on the last date of hearing that the applicant while on interim protection granted by this Court has threatened the complainant and has indulged in arson. It is not disputed that a separate FIR in that regard has already been registered and the applicant has also been arrested in the said FIR.

7. The applicant is stated to be in judicial custody at present. As far as the present FIR is concerned, as noted above, offences under Section 509/435 IPC are bailable in nature. *Prima facie* the provisions of Section 12 POCSO are not attracted at this stage. It cannot be denied that the applicant being in judicial custody is available for interrogation, if any, required by the State.

8. Since the applicant is already in judicial custody and is available with the prosecution for the purpose of investigation, this Court is of the opinion that no purpose would be served by allowing separate custodial interrogation of the applicant.

9. In view of the above, without commenting further on the merits of the case, the applicant in the event of arrest is directed to be released on bail on furnishing a personal bond for a sum of



₹20,000/- with two sureties of the like amount, subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicant shall join and cooperate with the investigation as and when directed by the IO;
- b. The applicant shall not leave the Country without the prior permission of the learned Trial Court;
- c. The applicant shall not contact the complainant / witnesses or tamper with the evidence in any manner;
- d. The applicant shall appear before the learned Trial Court on every date of hearing;
- e. The applicant shall give his mobile number to the concerned IO/SHO and shall keep their mobile phones switched on at all times;
- f. The applicant shall provide his address to the concerned IO/SHO and shall not change the same without intimating the concerned IO/SHO.

10. In the event of there being any FIR/DD entry / complaint lodged against the applicant, it would be open to the State to seek redressal.

11. The applicant would be at liberty to pursue his rights and remedies in the proceedings with respect to the other FIRs which have been or which may be registered against him, and in that event, nothing contained in this order shall amount to an expression of opinion on the merits of such proceedings.

12. The bail application is allowed in the aforementioned terms

AMIT MAHAJAN, J

JULY 23, 2024

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BAIL APPLN. 236/2024

Page 3 of 3