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

+ **BAIL APPLN. 270/2024**

ARUN KUMAR

..... Petitioner

Through: Mr. Varun Katiyal and Mr. Nakul
Kumar, Advocates

versus

GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Satish Kumar, APP for the State
with SI Ankita Singh, P.S. Pul
Prahladpur, Delhi

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

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23.01.2024

CRL.M.A. 2142/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

BAIL APPLN. 270/2024

3. The instant application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of regular bail in case FIR bearing no. 366/2022 dated 31.08.2022 registered at Police Station Pul Prahladpur, Delhi for offence punishable under Sections 363/376D/377/328/506/34 of Indian Penal Code, 1860 ('IPC') and Section 6 of Protection of Children from Sexual Offences Act, 2012 ('POCSO Act').
4. Issue notice. Mr. Satish Kumar, learned APP accepts notice on behalf



of the State.

5. Briefly stated the facts of the present case are that the complainant is a resident of Delhi and it is alleged that accused/applicant lived opposite to her residence and he had initiated contact with the complainant in September 2021. It is alleged that on 09.12.2021, from Pul Prahladpur bus stand, Delhi, the accused/applicant had taken the complainant to Eros Hotel Oyo and had physical relations with the complainant. It is specifically alleged that on 02.12.2021, and 31.12.2021 the accused/applicant continued to have physical relations with the complainant. It is further alleged that the complainant had been led to believe by the present accused/applicant that he intended to marry her. Thereafter, on 29.07.2022, co-accused namely, Naveen, friend of the accused/applicant herein had taken the complainant to Oyo Hotel situated in Vishkarma Colony, Delhi and allegedly had established physical relations with her. Furthermore, it is also alleged that the accused/applicant had again established physical relations with the complainant on 04.08.2022 on the pretext of marrying her. Therefore, the present FIR was registered.

6. Learned counsel for the applicant vehemently states that the present case is not a case of sexual assault on false pretext of marriage. It is stated that the relationship between the complainant and the applicant herein was consensual and that the complainant has improved her version in statements given under Section 164 Cr.P.C., there are several discrepancies in the case of the prosecution and her statements under Section 164 Cr.P.C. It is further stated that chargesheet in the case has been filed and that the applicant is in JC since 03.09.2022. Therefore, regular bail be granted to the applicant/accused as prayed for since no purpose will be served keeping him



in prolonged incarceration.

7. On the other hand, Learned APP for the State vehemently opposes the present bail application of the applicant/accused and submits that the allegations against the applicant are very specific and the prosecutrix has supported her case in statement made under Section 164 Cr.P.C. It is further stated that if the applicant/accused is released on bail he may influence the prosecutrix since cross examination of the prosecutrix is pending before the learned Trial Court. It is also submitted that co-accused Naveen was also involved in one episode of sexual assault as per the FIR, however, no ground for grant of bail is made out to the present accused/applicant.

8. This Court has heard arguments at length on behalf of both the parties and has also perused the material on record.

9. This Court notes that the complainant/victim in this case is only 17 years of age and that the prosecution has filed on record the school leaving certificate in support of her age thereof.

10. This Court has also gone through the complaint, the contents of the FIR, chargesheet as well as the statement of complainant under Section 164 Cr.P.C. This Court observes that there are specific allegations of sexual assault on false promise of marriage by the accused/applicant herein. The prosecutrix has supported the case of the prosecution before the learned Trial Court and that there are allegations of 15 episodes of sexual assault and other sexual abuses levelled by the complainant which were disclosed to the doctor and are specifically mentioned in the MLC of the victim.

11. Considering facts and circumstances of the present case and the fact that the cross-examination of the prosecutrix is still pending before the learned Trial Court. In view of the above, no ground for grant of regular bail



is made out at this stage.

12. Accordingly, the present application stands rejected.

13. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

14. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 23, 2024/ns

Click here to check corrigendum, if any