



2024 : DHC : 2642



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 03.04.2024

+ **BAIL APPLN. 318/2023**

MAHBOOB KHAN

..... Applicant

versus

STATE THROUGH SHO CHHAWLA

..... Respondent

Advocates who appeared in this case:

For the Applicant : Mr. Robins Kumar, Advocate for Mr. Rovin Kumar, Advocate.

For the Respondent : Mr. Utkarsh, APP for the State with SI Dharmveer, PS Chhawla.
Mr. Vishesh Wadhwa & Ms. Swadha Gupta, Advocates for the Complainant with the complainant in person.

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

AMIT MAHAJAN, J

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, ('Cr.P.C'), for the grant of regular bail in FIR No. 181/2021, dated 18.04.2021, under sections 363/323/366/376/506 of the Indian Penal Code, 1860 and Sections 6 & 17 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Chhawala.

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2. The FIR was registered pursuant to a complaint made by the father of the victim dated 17.04.2021, alleging that his daughter who is aged fifteen and a half years is missing since 4:00 p.m. from their house, the FIR with respect to the same was registered on 18.04.2021.

3. The applicant was arrested on 31.05.2021 and has been in custody since then.

4. This Court by separate judgement passed in BAIL APPLN. 303/2023 dated 03.04.2024, granted bail to the co-accused Babul Hussen. The allegation against the present applicant is not graver than the co-accused Babul Hussen. The applicant is alleged to have aided the co-accused Babul Hussen, in taking the victim out from the custody of her parents. The allegations in relation to offence under Section 376 IPC have not been made against the applicant. The applicant is in custody since 30/05/2021 and only 15 witnesses have been examined till date. It is not disputed that the trial is likely to take a considerable amount of time.

5. The victim and the father of the victim have already been examined, and therefore, there cannot be any apprehension that if the accused released on bail would threaten the witnesses or would hamper further investigation, if any. It is also not alleged that the applicant is at flight risk.

6. Considering the aforesaid facts and circumstances and the fact that the co-accused Babul Hussen has been granted bail, the present bail application is allowed and the applicant is directed to be released on bail



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on furnishing a bail bond for a sum of ₹25,000/- with one surety of the like amount to the satisfaction of the learned Trial Court/ Duty Metropolitan Magistrate, subject to the following terms and conditions:

- a) The applicant shall, upon his release, furnish a proof of residence where he shall reside, which should be at least 5 KM far from the locality where the victim resides, subject to the satisfaction of the IO;
- b) The applicant shall upon his release provide his mobile number to the concerned IO / SHO and keep it switched on at all times;
- c) The applicant shall not take unwarranted adjournment and attend the Trial Court proceedings on every date;
- d) The applicant shall not contact the victim and tamper with the evidence in any manner whatsoever.

7. 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 by seeking cancellation of bail.

8. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

9. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

APRIL 3, 2024/Aman

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