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

+ **BAIL APPLN. 447/2023**

NAND KISHORE

.....Petitioner

Through: Mr.Himanshu Sharma, Mr.Vineet Singh, Mr.Sumit Kumar and Mr.Ravinder Tyagi, Advocates (Through VC)

versus

THE STATE (GOVT. OF NCT OF DELHI)Respondent

Through: Mr.Mukesh Kumar, APP for the State
Mr. Anjani Kumar Jha, Advocate for complainant

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

26.11.2024

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1. The instant bail application has been filed on behalf of the applicant seeking regular bail in FIR No. 455/2020 for offences punishable under Section 366 IPC registered at Police Station Prem Nagar. The chargesheet was filed under Sections 363/366/368/376/506 IPC and Section 6/17/21 of POCSO Act
2. Initially, the Police filed a cancellation report on 05.11.2020 on the basis of the statement made by the victim on 14.10.2020 stating that she had gone at her own with her friend without telling her family and she was not kidnapped or abducted. On the similar lines, the prosecutrix made a statement under Section 164 Cr.P.C. on 15.10.2020, wherein also she confirmed that she had gone at her own



and nothing wrong has been done with her. It is pertinent to mention that the FIR in question was lodged on the basis of a missing report lodged by the mother of the victim. Subsequently, pursuant to the order dated 10.01.2022 by the Court under Section 156(3) Cr.P.C., an application was moved for further investigation which was allowed vide order dated 28.04.2022. During the course of further investigation, the victim made a statement on 23.04.2024, making serious allegations against the applicant to the effect that the applicant had taken her and established physical relations against her wishes. Similarly, in the statement recorded on 25.04.2024 under Section 164 Cr.P.C. also, the victim made allegations against the applicant of establishing physical relations with her against her wishes. The date of birth of the prosecutrix was stated to be 15.02.2003, meaning thereby, that the victim was minor at the time of the incident.

3. Learned counsel for the applicant submitted that the applicant is in custody since 08.06.2022. Chargesheet has already been filed and the statement of the victim has already been recorded.
4. Learned APP for the State submitted that there is no doubt that initially, the cancellation report was filed, however, subsequent to the order of the Court, further investigation was carried out and chargesheet under Sections 363/366/368/376/506 IPC and Section 6 of POCSO Act was filed.
5. A bare perusal of the statement of the victim recorded under Sections 161 and 164 Cr.P.C. on 14.10.2020 and 15.10.2020 respectively, there are marked contradictions in the statement recorded under Sections 161 and 164 Cr.P.C on 23.04.2024 and 25.04.2024. The effect of



these contradictions can only be appreciated by the learned Trial Court during the course of the trial. The applicant is in custody for more than two years and the chargesheet has already been filed.

6. In view of the facts and circumstances, the applicant is admitted to regular bail on furnishing a personal bond in the sum of Rs. 20,000/- with one surety of the like amount to the satisfaction of concerned learned Trial Court, subject to the verification of address and mobile number to be given and subject to the following further conditions:

- a. the petitioner shall regularly appear before the IO/trial court as and when directed;
- b. the petitioner shall not directly or indirectly make any inducement, threat, intimidate or tamper with any person acquainted with the facts of the case;
- c. the petitioner shall remain available on the address, to be given to the IO and shall not leave the country without the permission of the learned Trial Court;
- d. In case of change of residential address and/or mobile number, the petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.

7. In view of the above, the instant application stands disposed of.

DINESH KUMAR SHARMA, J

NOVEMBER 26, 2024

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