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

+ **BAIL APPLN. 622/2024**
YOGESH @ TUNDA

..... Applicant

Through: Mr. Anuj Aggarwal, Mr.
Virender Mual, Mr.
Abhishek K. Thakur, Mr.
Manas Verma, Mr.
Pradeep Lamba, Mr.
Shubham Balu, Mr. Aurag
Andley, Mr. Aditya
Andley, Mr. Nikhil Pawar,
Ms. Shreya, Mr. Siddharth
Nair & Mr. Kshitij Arora,
Advs.

versus

STATE (GOVT. OF N.C.T. DELHI) Respondent

Through: Mr. Utkarsh, APP for the
State
Inspector Ashok, Special
Cell, NDR

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
05.03.2024

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CRL.M.A. 5477/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 ('CrPC'), *inter alia*, seeking custody bail in FIR No. 252/2018 dated 25.05.2018 registered at Police Station Alipur, for offences punishable under Section 3 of the Maharashtra Control of Organised Crime Act, 1999 (hereafter



‘MCOC Act’).

4. The learned Counsel for applicant submits that the applicant was arrested in the present case on 04.08.2018.

5. He submits that the applicant intends to marry a girl named ‘Neetu’ whom he had known for the last nine years. He submits that both are major and can give consent to the marriage.

6. He submits that the Neetu has paid an advance of Rs. 1100/- with the Arya Samaj Mandir Trust, located at 13/14, First floor opposite Gate No.6 back side Gokhale Market, Tis Ahzari Court, Delhi- 110054, for booking the same for the purpose of getting married.

7. The learned Additional Public Prosecutor for the State has opposed the present application on the ground that the applicant is under Trial in MCOC Act case, and is an active member of the organised crime syndicate with more than 60 cases pending against the syndicate.

8. He submits that the members of the crime syndicate have a record of escaping from police custody and the present applicant is also accused of committing a murder inside the jail premises. He submits that there is a strong apprehension that the applicant may attempt jumping the bail, as on an earlier occasion he had attempted to procure interim bail on the basis of forged documents.

9. The learned Trial Court had dismissed the bail application three counts, that is, first that the mother of the girl had not consented to the marriage; second that the applicant had forged COVID certificate of his father in order to procure interim bail; and third that more than 60 cases are registered against crime syndicate to which the petitioner is alleged to be a part of.

10. The girl Neetu is present in court and submits that she



intends to marry the present applicant. She also submits that she goes to meet the applicant in jail on a regular basis.

11. The status report handed over by the Respondent/State states that the factum of the marriage had been verified from the Arya Samaj Mandir.

12. Since the factum of the marriage is verified from the status report and the prospective wife of the applicant has also confirmed that she wants to get married to the applicant. However, keeping in mind the contention raised that the applicant is a high risk under trial prisoner, this court considers it apposite to put appropriate conditions and release the applicant, on humanitarian grounds, on custody bail for a period of six hours, on the following directions:

- a. Considering the applicant is a high risk under trial prisoner the concerned jail superintendent is directed to make the necessary security arrangements;
- b. The applicant will be released from jail in custody on any one day between 08.03.2024 – 15.02.2024, subject to putting in place proper security arrangements and prior verification of the venue by the jail superintendent, for a period of six hours including the travel time between the jail and the place of marriage, that is – Arya Samaj Mandir, located at 13/14, First floor opposite Gate No.6 back side Gokhale Market, Tis Hazari Court, Delhi-110054; Or any other Arya Samaj Mandir which the Jail Superintendent feels safe to ensure the safety of the applicant as well as others;
- c. The applicant shall be brought back to the jail directly after the marriage ceremony from the Arya Samaj Mandir.

13. Needless to state that all the expenses of the custody bail



will be borne out by the applicant.

14. The application is allowed in aforesaid terms.

15. A copy of this order be sent to the concerned jail superintendent.

AMIT MAHAJAN, J

MARCH 5, 2024

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