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

+ **BAIL APPLN. 660/2024**

PANKAJ

..... Petitioner

Through: **Mr.Kshitij Kumar, Advocate**

versus

STATE OF NCT DELHI & ANR.

..... Respondents

Through: **Ms. Meenakshi Dahiya, APP for State
with Mr.Chaaitanya Jain and
Mr.Shishav Shukla, Advocates
alongwith prosecutrix in person.**

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

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15.05.2024

1. An application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for grant of regular bail in FIR No.528/2023 under Sections 376(2)(n)/506 IPC registered at P.S.: Kalyan Puri.

2. In brief, as per the case of the prosecution, present FIR was registered on 10.07.2023, on complaint of prosecutrix 'K' who alleged that she came in contact with the petitioner in 2018 through an app 'Happen' and thereafter they started meeting at different places. Further it was alleged that on 02.09.2018 at residence of their common friend, physical relationship was established between them on pretext of marriage. Physical relations are further stated to have continued for a certain period at prosecutrix's home. Thereafter, there was an argument with the petitioner on marriage and prosecutrix also informed petitioner that she might be pregnant. The fetus



is further stated to have been aborted at instance of the petitioner. In the year 2023, prosecutrix got to know that petitioner had married some other girl but the same was denied by petitioner on confrontation. She further alleged that after establishing physical relations for last time, petitioner blocked her on Whatsapp and stopped talking to her. FIR was accordingly registered on 10.07.2023.

3. Learned counsel for the petitioner submits that even as per the allegations, physical relations were consensual and though the relationship continued for over five years, no complaint was made on behalf of prosecutrix. He further submits that the petitioner is in custody since 11.07.2023 and there is none to look after kids of the petitioner, as he was married in 2023.

4. On the other hand, learned APP for the State alongwith prosecutrix oppose the application. She submits that relationship between the parties is apparent, since during investigation, it was corroborated that prosecutrix had got the foetus aborted. She also submits that prosecutrix donated her eggs against a payment of Rs.20,000/- and reflected petitioner as her husband in the documents.

5. I have given considered thought to the contentions raised.

Admittedly, prosecutrix is a major, aged about 29 years and the relationship continued over a long period of five years, during which, no complaint of sexual assault was ever lodged against the petitioner. Donation of eggs by prosecutrix appears to be only against some consideration which was received by the prosecutrix only.

6. Considering the totality of the facts and circumstances, since relationship between the petitioner and prosecutrix appears to be consensual,



without expressing any opinion on the merits of the case, petitioner is admitted to bail on furnishing personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount to the satisfaction of the learned trial court and subject to the following conditions:

- (i) Appellant shall provide his mobile number to the Investigating Officer (IO)/SHO concerned at the time of release;
- (ii) In case of change of address, appellant shall intimate/communicate his address to the IO/SHO concerned;
- (iii) Appellant shall not influence the witnesses in any manner.

Application is accordingly disposed of.

A copy of this order be forwarded to the Superintendent Jail and concerned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J

MAY 15, 2024/v