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

+ **BAIL APPLN. 1143/2023**

OM PRAKASH

..... Petitioner

Through: **Mr. Surya Nath Pandey, Advocate.**

versus

STATE (GOVT. OF NCT OF DELHI) AND ANOTHER

..... Respondents

Through: **Mr. Amit Ahlawat, APP for the State
with SI Gunjan Sirohi, P.S. Rajouri
Garden.**

**Mr. Devender Kumar and Ms. Priti,
Advocate (through VC) for victim
alongwith victim in person.**

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

05.02.2024

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1. This is an application under Section 439 read with Section 482 of the Cr.P.C seeking regular bail in case FIR No. 66/2019, under Sections 376/376D/506 of the IPC & Section 6 of the POCSO Act registered at P.S. Rajouri Garden, New Delhi.

2. The present FIR was registered on the statement of the victim wherein she stated that on 03.01.2019, at about 09:00 PM, one Tarun who was known to her called her and took her towards *Ganda Nala*, Raghubir Nagar and forcefully made physical relations with her. She further alleged that in the meantime, four boys, who were residing in their neighborhood came and forcibly made physical relations with her. It was stated that she could



identify the said boys. Thereafter, the present FIR was registered on her complaint and investigation was conducted. The present applicant, alongwith other co-accused was arrested on 16.02.2019 and on completion of the investigation, chargesheet has been filed before the Court of competent jurisdiction.

3. Learned counsel appearing on behalf of the applicant submits that during the course of trial, the victim has not supported the case of the prosecution against the aforesaid Tarun. It is submitted that the victim/complainant has since married the aforesaid Tarun. It is pointed out that the FIR was registered after a delay of more than a month. It is submitted that as per the case of the victim, the incident had occurred on 03.01.2019, however, the FIR was registered on 15.02.2019. It has further been pointed out that the material witnesses, including the victim, have been examined in the present case.

4. The victim/complainant is present in person in Court alongwith counsel who appears through video conferencing and states that she has no objection if the applicant be released on bail.

5. As per the nominal roll dated 26.06.2023, as on 24.06.2023, the applicant has undergone custody for 04 years and 25 days. It is further reflected that the applicant is not involved in any other offence. The trial is underway and the victim has already been examined.

6. In totality of the facts and circumstances of the case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs.50,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:



- i) The applicant shall not leave India without prior permission of the learned Trial Court.
- ii) The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii) The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv) The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- v) The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
7. The application is allowed and disposed of accordingly.
8. Pending applications, if any, also stand disposed of.
9. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.
10. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
11. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

FEBRUARY 5, 2024/kct