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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 913/2024

NEERAJ @ BUNTY

.....Petitioner

Through: Mr. Gautam Khazanchi and
Ms. Suruchi Jaiswal (DHCLSC),
Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the State
with Mr. Akshay, Mr. Abhilash
Butani, Ms. Sofiya Gulati and Ms.
Rinny Abraham, Advocates.
W/SI Archana, P.S.: Mehrauli.
Mr. M Hasibuddin and Mr. Bheem
Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

22.08.2024

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By way of the present petition filed under section 439 read with section 482 of the Code of Criminal Procedure 1973, the petitioner seeks regular bail in case FIR No. 454/2017 dated 10.07.2017 registered under sections 376/506 of the Indian Penal Code, 1860 ('IPC') and sections 4/12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO') at P.S.: Mehrauli, Delhi. Consequent upon completion of investigation, sections 354-C/120-B/34/363/366 IPC and section 17 of the PCOSO Act have been added *vide* chargesheet dated 03.10.2017.



2. Notice on this petition was issued on 13.03.2024. Status Report dated 14.07.2024 has been filed on behalf of the State.
3. Nominal Roll dated 01.05.2024 has also been received from the Jail Superintendent.
4. Mr. Gautam Khazanchi, learned appearing for the petitioner submits, that the genesis of the matter is an incident that occurred on 04.06.2017, when the petitioner is alleged to have committed sexual assault on the complainant in the house of the co-accused, who (latter) is stated to be the complainant's cousin sister. It is submitted that as per the prosecution, the complainant's date of birth is 01.04.2000, and therefore on the date of commission of the alleged offence, the complainant was about 16½ years of age.
5. Mr. Khazanchi further submits that it is the petitioner's case that his own date of birth is 06.03.2000; and that therefore on the date of the alleged commission of the offence, the petitioner himself was also about 16½ years old. In support of the submission, the petitioner has appended a copy of his Aadhaar Card, which shows his date of birth as 06.03.2000.
6. Mr. Khazanchi further submits, that as will be seen from the nominal roll, the petitioner has already remained in judicial custody for about 07 years; that his jail conduct has been 'satisfactory'; that he has been working voluntarily as *chakkar sahayak*; that he was granted interim bail on 03 occasions between 2019 to 2023 and there is no allegation that he ever jumped bail or that he violated any other condition of grant of interim bail.



7. It is further pointed-out, that in fact for the service performed by the petitioner in jail, he has received letters of appreciation consecutively for 04 years.
8. Mr. Khazanchi also draws attention to order dated 18.07.2023 made by a Co-ordinate Bench of this court in BAIL APPLN. No.3377/2022, to submit that appreciating the stage and progress of the trial in the present case, the Co-ordinate Bench was pleased to direct the learned Trial Court to complete the trial as expeditiously as possible, and *preferably within a period of 06 months* without giving any undue adjournment to the parties. It is submitted however, that more than a year has lapsed thereafter but only 14 out of the 30 prosecution witnesses have so far deposed in the matter; and 6 prosecution witnesses have been dropped since the petitioner has admitted certain documents under section 294 Cr.P.C. It is submitted therefore, that the trial is unlikely to be completed anytime soon.
9. Counsel submits, that even when tested on the touchstone of the real-life considerations that are to be applied for crossing the higher threshold placed for grant of bail by section 29 of the POCSO Act, as set-out by this court in its decision in ***Dharmander Singh @ Saheb vs. The State (Govt. of NCT, Delhi)***¹, the petitioner meets those criteria inasmuch as he was almost the same age as the complainant and there is no allegation of any violence in the course of the commission of the alleged offence.

¹ 2020 SCC OnLine Del 1267



10. On the other hand, Mr. Manoj Pant, learned APP appearing for the State and Mr. M Hasibuddin, learned counsel appearing for the complainant, oppose the grant of bail, submitting that not only is the petitioner accused of having committed offences under sections 376/506 I.P.C. and sections 4/12 POCSO Act against the complainant, he is also accused of having circulated her objectionable videos/photos on WhatsApp. Furthermore, it is submitted that while the petitioner was on interim bail, he is alleged to have extended threats to the complainant.
11. However, a perusal of the record shows, that essentially the allegation of circulating objectionable videos/photos of the complainant is not against the petitioner but against the complainant's cousin sister, in whose premises the offences are alleged to have been committed.
12. Furthermore, insofar as the submission that the petitioner had extended threats to the complainant or to her family while he was on interim bail is concerned, there is nothing on record to show that the complainant took any steps after receiving the alleged threats, say to seek cancellation of the interim bail.
13. Upon an overall consideration of the facts and circumstances of the case, what weighs with the court at this stage, is the fact that the petitioner has already undergone judicial custody for almost 07 years as an undertrial; that it has not been possible for the learned Trial Court to conclude the trial despite a direction having been issued by a Co-ordinate Bench of this court to do so within a period of 06 months *vide* order dated 18.07.2023; and further that, despite more than a year having elapsed thereafter, only 14 out of the 30 prosecution witnesses



have so far deposed at the trial (though 6 prosecution witnesses have been dropped). This court is also persuaded by reason of the relative age of the petitioner and the complainant at the time of commission of the alleged offences, as represented by Mr. Khazanchi.

14. Upon a conspectus of the facts and circumstances of the case, this court is persuaded to admit the petitioner – **Neeraj alia Bunt** s/o **Sukh Ram Singh** – to *regular bail* pending trial, subject to the following conditions :

- 14.1. The petitioner shall furnish a personal bond in the sum of Rs.25,000/- (Rs. Twenty-five thousand Only) with 02 local sureties in the like amount from family members, to the satisfaction of the learned Trial Court;
- 14.2. The petitioner shall furnish to the Investigating Officer a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
- 14.3. If the petitioner has a passport, he shall surrender the same to the learned Trial Court and shall not travel out of the country without prior permission of the learned Trial Court;
- 14.4. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O.
- 14.5. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would



prejudice the proceedings in the pending trial. More specifically, the petitioner shall neither contact nor interact, whether directly or indirectly, with the complainant or her family, in any manner whatsoever. The petitioner shall also not visit the locality in which the complainant stays.

- 14.6. Since the petitioner is facing trial and is therefore appearing before the learned Trial Court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of bail.
15. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.
16. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
17. The petition stands disposed-of.
18. Other pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

AUGUST 22, 2024

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