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

+ **BAIL APPLN. 1264/2024**

AJAY ALIAS SHAMBHU

.....Petitioner

Through: Mr. Vikas Sharma and Ms. Manvi
Rajvanshy, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for the
State with Insp. Imteyar Alam, PS
Bawana.
Ms. Tara Narula and Mr. Anirudh
Ramanathan, Advocates (DHCLSC)
for Prosecutrix.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

21.08.2024

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1. This petition has been filed seeking regular bail in FIR No.975/2023 under Section 376 IPC and Section 6 POCSO Act, PS Bawana. Since then, the investigation has been completed *qua* the co-accused Pawan.
2. As per the case of the prosecution, the prosecutrix had levelled allegations against Pawan, husband of maternal uncle's daughter stating she was acquainted with him and used to call him, and that he made physical relations with her on 08th July, 2023, took objectionable photographs, threatened to make it viral, and did so subsequently when the photographs reached acquaintances and family members. She was duly scolded by her parents and consequently she had a fight with her family and left home.



3. As per her statement, she was asked by Shambhu @ Ajay to stay at one of his acquaintances in Kirari, Suleman Nagar. She further alleged that Shambhu @ Ajay and the wife Beby Devi took her to Nangloi, in the name of marriage, when she was confined during that time. Charge-sheet has been filed.
4. As per the ossification test of the prosecutrix, she was found to be more than 18 years of age. Charges were framed against Pawan under Section 376 IPC and Section 6 POCSO Act and Section 66E of the IT Act. The said Pawan has already been enlarged on bail by the Trial Court by order dated 09th August, 2024.
5. As regards petitioner Ajay @ Shambhu, charges under Sections 323/344/366A/34 IPC have been framed.
6. As regards Beby Devi, NBWs were obtained and process under Section 82 Cr.P.C. was initiated. The Court by order dated 24th April, 2024 granted interim protection to the petitioner Beby Devi. Subsequently, the proceedings under Section 82 Cr.P.C. were stayed by the Trial Court *vide* order dated 04th June, 2024. The petitioner has since joined the investigation.
7. The complainant is also present through her counsel. The Trial Court has recorded that per submissions made by the victim during submissions of bail, *prima facie* there is consensual relationship between the victim and the accused Pawan and the victim has not opposed the bail and requested for grant of bail to the accused Pawan. Though, the complainant appears through her counsel, and opposes the grant of bail, before this Court.



8. Counsel for the petitioner states that the incidence is of October 2023 relating to the confinement and the FIR was registered two months later on 21st December, 2023.

9. Considering that charges have been framed against the petitioner and the trial is still to continue, in the opinion of this Court, the petitioner is entitled to be granted bail.

10. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- iv. Petitioner shall join investigation as and when called by the IO concerned.
- v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall



not switch off or change the mobile number without prior intimation to the IO concerned.

vi. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case, and that petitioner will not visit or venture anywhere in the vicinity of the victim, victim's house and the victim's family members.

11. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.

12. Counsel for the petitioner states that since the victim was, post ossification, declared over 18 years, they shall be challenging the charge under Section 366A IPC in this regard.

13. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

14. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.

15. Order be given *dasti*.

16. Order be uploaded on the website of this Court.

ANISH DAYAL, J

AUGUST 21, 2024/MK