



2024:DHC:5705



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of decision: 23rd July, 2024***
+ **BAIL APPLN. 1410/2024**

VIKAS RAJ KOTI THAPA

.....Petitioner

Through: Mr. S.K. Jha, Advocate.

versus

THE STATE (NCT OF DELHI) & ANR.

.....Respondents

Through: Ms. Richa Dhawan, Ld. APP for the
State with WSI Athine, P.S. Malviya
Nagar.**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. The present Bail Application under Section 439 of the Code of Criminal Procedure (hereinafter referred to as 'Cr.PC, 1973') has been filed on behalf of the accused/petitioner, namely, Vikas Raj Koti Thapa for grant of Bail in case FIR No. 238/2022 under Sections 376/370-A/120-B and 6/16 of POCSO Act, registered at Police Station Malviya Nagar.
2. The case of the prosecution is that the parents of the victim, had expired when she was of young age. Some lady, who was her neighbour and used to work in the houses as a maid, made her to meet one Ms. Mamta, to get the victim work as a maid in Kothies. About three years back, the victim was brought to Delhi, in a flight. She took the victim girl to the house of co-accused Ms. Meena Gautam @ Reena at Mohammadpur, R.K. Puram, New



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Delhi, who started to send the victim to various persons for prostitution and also threatened to kill her. According to the Prosecution, the co-accused Ms. Meena Gautam @ Reena, also sent the victim to the applicant, Vikas Rajkoti Thapa for doing wrongful acts. It is the case of the prosecution that the applicant did not permit the victim to go out of his house and wherever the applicant had clients, then the co-accused Ms. Meena Gautam @ Reena, used to leave the victim with the applicant for prostitution.

3. The victim in her statement under Section 161 Cr.PC dated 13.03.2022, had stated that about 4 to 5 months back, the co-accused Ms. Meena Gautam @ Reena, had left her for one month with the applicant, who used to send her for 15 days for prostitution to different persons and for the remaining 10 to 15 days would send her back to the co-accused Ms. Meena Gautam @ Reena. She had further stated that the money so earned from the prostitution, was distributed amongst themselves. She also stated that the Applicant had established physical relationship with her. She also asserted that she had become pregnant. The Applicant has relied on the FSL Report, wherein he has not been found the biological father of the foetus.

4. The applicant's Bail Application before the learned ASJ, had been dismissed *vide* Order dated 09.04.2024.

5. The petitioner has claimed that he has been falsely implicated in this case and arrested on 15.03.2022 since then he is in judicial custody. The victim of this case had not given the name of the applicant in the complaint and it is also not mentioned in the FIR. Even in her statement under Section 164 CrPC before the learned Magistrate, the victim had not made any allegations against the applicant. The Charge-Sheet had been filed in the Court on 10.05.2024. It is claimed that the IO had tutored the victim and



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recorded her statement under statement under Section 161 Cr.PC and falsely implicated the present accused. The FSL Report does not support the allegations made against him. It is asserted that the victim has not approached the Police with clean hands as she had committed robbery with four assailants in the area of Police Station Paharganj, Delhi *vide* FIR No. 187/2022 under Sections 392/34 IPC, dated 01.03.2022, registered at Police Station Paharganj. The victim is not of a good conduct and has been doing the work of prostitution intentionally for the purpose of earning the money.

6. The accused is running a Dhaba, at Mehrauli, New Delhi and has no concern with the alleged offence. The landlord or other occupants of other floors of the premises of the house where the accused is residing, have not been made a witness. He is a married man having a wife and a minor school going son. He is the only bread earner of his family.

7. The accused has further disclosed that he had earlier moved a Bail Application before this Court but was withdrawn on 25.04.2023 with liberty to file the fresh bail application, as the statement of the victim had not been recorded before the trial court.

8. The statement of the victim has been recorded on 29.01.2024 wherein she has admitted that the accused never did any wrong act with her. She also admitted that the applicant never involved her into the prostitution. She has admitted not knowing the house number of the accused and that she had not given his name in her statement to the learned Metropolitan Magistrate or assigned any role to the accused persons.

9. The accused has submitted that the two co-accused, Sahil and Mursalin, had already been granted bail by the trial court before recording the statement of the victim. The other two public witnesses have also been



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examined by the trial court and there are no allegations proved against the accused. Only the police witnesses remained to be examined.

10. The accused has submitted that he is not a previous convict and is ready to furnish the surety to the satisfaction of the Court and hence, has sought the bail.

11. Status Report and the affidavit of prosecutrix have been filed. Let the same be taken on record. The Status Report had been submitted on behalf of the prosecution wherein it is stated that in view of the nature of crime and the gravity of the allegations against the accused, the bail may be denied.

12. **Submissions heard.**

13. There are serious allegations against the accused of having pushed the victim into prostitution and of making money from such acts. The prosecutrix in her cross-examination, has deposed against the present applicant. Considering the serious gravity of the offence and the nature of allegations, this is not a fit case for grant of bail, which is hereby rejected.

14. The Petition is disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

JULY 23, 2024/RS