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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1433/2024**

BRIJESH @RAJ

.....Petitioner

Through: Mr. Yogesh Kumar Rana, Advocate.

versus

THE STATE OF DELHI AND ANR.

.....Respondents

Through: Ms. Manjeet Arya, APP for State
with SI Sanjay Bansal, P.S.
Bhajanpura.
Ms. Shivangi Sharma and Ms.
Shivanjali Bhale Rao, Advocates for
respondent No.2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
02.12.2024

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1. By way of present bail application, the applicant seeks regular bail in FIR No. 122/2019 registered under Sections 363/366/368/370/376D/120B/34 IPC and Sections 4/6 of the POCSO Act at P.S. Bhajanpura, Delhi.
2. Learned counsel for the applicant contends that testimony of the child victim is replete with contradictions and omissions. In this regard, he has referred to the MLC where the applicant's name is not mentioned. Another contention raised is that though the mother of the child had lodged a missing report, she already knew about the names and addresses of the accused persons. Insofar as the testimony of the child victim is concerned, it is stated



that there is a dispute as to the place where she had identified the applicant. It is further submitted that though in her initial statement, the child victim has stated that she met an *auto* driver who then took her to the house of co-accused *Sonia*, however, this was not stated in her statement recorded under Section 164 Cr.P.C. Furthermore, there is also variance as to how she got married to Mukesh as in her cross-examination, she stated that it was a court marriage. Learned counsel has also pointed out to the cross-examination carried out by the other accused, wherein she was confronted with the photographs where she was seen happily enjoying festivals in the company of others. Though it is the case of the prosecution that applicant was identified in Bharatpur, however, he was arrested from Bhopra, U.P. Ld. counsel has also doubted the description of the prosecutrix as a child victim by contending that there is no concrete proof of age on record.

3. The bail application is resisted by Ld. APP for the State, duly assisted by Ld. counsel for the child victim. She states that the child victim has not only correctly identified the applicant but also levelled allegations of rape and trafficking consistently. It is submitted that insofar as age is concerned, the I.O. has received a certificate from the Principal of the school attended by the child victim wherein an affidavit was given as to her date of birth being 25.01.2003. The Principal has stated that the child victim attended the said school from 24.11.2009 to 11.09.2013. Attention of the Court is also drawn to the reports stating that the child victim is a special child and the entire testimony of the child victim is recorded in the presence and assistance of a special educator.

4. I have heard the learned counsels for the parties and gone through the material on record.



5. Insofar as the applicant is concerned, Trial Court has framed charges under Sections 376(2)(n)/376(3)/120B/370(4)/109 IPC and 5/6/17 POCSO Act. A reading of the testimony of the child victim would show that she has consistently stated not only about the incident of rape committed upon her by the present applicant but also stated that the applicant has taken money. In her examination-in-chief carried out in the presence of the special educator, she has admitted that the applicant as well as *Rohit* used to earn money in lieu of wrong acts with her. She further stated that the applicant alongwith accused *Sonia* and *Sudhir Bakra* sold her to accused *Mukesh*.

6. After going through the testimony of the child witness as well as considering the totality of the facts, I find no grounds to admit the applicant on regular bail. Consequently, the bail application is dismissed.

7. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

DECEMBER 2, 2024

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