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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2176/2023

GULAB

..... Petitioner

Through: Mr.Prince Sharma, Mr.Mukesh Verma, Mr.Arvind Mishra, Mr.Ashish Kumar Jha, Mr.Abhishek Kaundal, Mr.Akhilesh, Mr.Ravi Kanchana and Ms. Archana Kumari, Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms.Meenakshi Dahiya, APP for State with SI Manoj Kumar, P.S. Nihal Vihar.
Mr.Vismita Diwan (DHCLSC), Advocate for prosecutrix.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

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10.05.2024

1. An application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for grant of regular bail in FIR No. 508/2022 under Sections 376/328/506 IPC & Section 6 of POCSO Act registered at P.S. Nihal Vihar.
2. In brief, as per the case of prosecution, present FIR was registered on 30.03.2022 on complaint of victim who alleged that on 22.03.2022, Gulab @ Akash (petitioner) called her outside her house in order to wish him on his birthday when she was returning to her house, he forced her to drink water due to which she became unconscious. On next day, she found herself lying in a park located in front of house of petitioner and her clothes were drenched in blood. She realised that some wrong act has been committed



with her and disclosed the same to her brother who had reached the spot searching for her. Further she went back to her house and washed the clothes. Thereafter, she went to P.S. Nihal Vihar with her brother but did not disclose the incident. On 29.03.2022, she again went to the Police Station but her complaint was not registered. Thereafter she was taken to Sanjay Gandhi Hospital, New Delhi on 30.03.2022, wherein she disclosed the incident. FIR was accordingly registered under Sections 376/328/506 IPC & Section 6 of POCSO Act.

3. Learned counsel for the petitioner submits that though the petitioner had gone to the Police Station on 23.03.2022 after the alleged incident but nothing was revealed to the Police on the aforesaid date and FIR has been registered after deliberations after delay of 8 days. He further submits that deposition of victim that FIR was not registered on 29.03.2022 due to unavailability of police officials, is also unbelievable. It is further pointed out that no injuries were reflected in the MLC and internal examination was denied by the victim/prosecutrix. Further, there are inconsistencies in the statement of victim recorded under Sections 161, 164 Cr.P.C. and testimony given before the Court. It is urged that victim stated that water was given to her by accused in front of house of accused in deposition before the Court, while in her statement under Section 164 Cr.P.C., it was alleged that the petitioner had offered her water outside her house. It is emphasized by learned counsel for the petitioner that since statements of all material witnesses have already been recorded, there is no possibility of influencing the witnesses.

4. On the other hand, application is opposed by learned APP for State alongwith learned counsel for prosecutrix. Learned counsel for the



prosecutrix submits that prosecution version was supported by the prosecutrix, in which she has duly explained the reasons as to why the incident could not be reported immediately. She further submits that the incident is also supported by brother of victim and points out that victim was not a consenting party.

5. I have given considered thought to the contentions raised.

Apparently, there is a delay of 8 days in reporting the incident and registration of FIR. The explanation put forth for the delay needs to be seen in the light of cross-examination and inconsistencies in the deposition of material witnesses. The deliberations prior to registration of FIR cannot be ruled out. It cannot be ignored that petitioner and victim were within comparative age group though victim was a minor on the date of incident, and both were closely known to each other. The material witnesses have already been examined and as such there is no possibility of influencing the witnesses.

Considering the totality of facts and circumstances and without expressing any opinion on merits of the case, petitioner is admitted to bail on furnishing a personal bond in the sum of Rs. 15,000/- (Rupees Fifteen Thousand only) with one surety in the like amount to the satisfaction of the learned trial court and subject to the following conditions :

- (i) Petitioner shall provide his mobile number to the Investigating Officer (IO) / SHO concerned;
- (ii) In case of change of address, petitioner shall intimate/communicate his address to the IO/SHO concerned.
- (iii) Petitioner shall not influence the witnesses in any manner.



Application is accordingly disposed of.

A copy of this order be sent to the Superintendent Jail and concerned Trial Court for compliance.

ANOOP KUMAR MENDIRATTA, J

MAY 10, 2024/v