



\$~8

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

+ **BAIL APPLN. 1632/2024**

MD KHURSHID ALI

.....Petitioner

Through: **Mr. Abhinav Hansaram, Advocate.**

versus

STATE NCT OF DELHI

.....Respondent

Through: **Mr. Hemant Mehla, APP with Ms. Mridul Sharma, Advocate for State. W/S.I. Archana with victim, PS Mehrauli, Delhi.**

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

07.08.2024

%

1. The present Petition under Section 439 of the Code of Criminal Procedure, 1973 has been filed on behalf of the petitioner seeking grant of bail in FIR No. 691/2021 registered under Sections 376(2)(j)(n)/506 (Part-II) of the Indian Penal Code, 1860 and Section 6 read with Section 5(j)(ii), (i) and (n) of the Protection of Children from Sexual Offences Act, 2012 at Police Station Mehrauli, Delhi.

2. It is submitted that the petitioner is 38 years old, married to Ms. Nargis and is father of two toddlers. However, during the COVID-19 Pandemic, he lost his employment and is unable to support his family financially. The petitioner performed odd jobs and manual labour to feed his family. The petitioner's wife, Ms. Nargis, earns her livelihood by working as a domestic servant in the neighbourhood. Despite the hardwork of the



petitioner and his wife, they struggle to make ends meet or to send their children to school.

3. Since the accused-petitioner has been arrested, his family is bereft of any company and is not in a position to support themselves financially.

4. According to the FIR, the alleged offence was committed by the petitioner around five months prior to the registration of the present FIR.

5. Also, according to the school records, the date of birth of the prosecutrix is 15.02.2004. However, according to the Aadhar Card of the prosecutrix, her date of birth is 03.03.2002 thereby reflecting that she was 19 years old at the time of alleged offence.

6. The investigations have been completed and the Chargesheet has been filed before the learned Trial Court.

7. Further, there are as many as fourteen prosecution witnesses out of which, eight witnesses have been examined till date.

8. Further, during his period of custody, he has behaved well and has obtained the Certificates in Food & Beverage Service-Associate (TH)C/Q0301 conforming to the National Skills Qualification Framework Level-4, and also Certificate issued by the Skill India and Electronics & Hardware (Helper-Electrical Technician) conducted by JSS Peeragarhi, Delhi for a period of 105 days, issued by Jan Shikshan Sansthan.

9. It is submitted that the petitioner may be granted bail on the aforesaid grounds.

10. **The Status Report has been filed on behalf of the State** *vide* which the present bail petition has been opposed by stating that during the course of investigations, the counselling of the victim/prosecutrix had been conducted by CIC Counsellor and then medical examination of the



prosecutrix was got done, wherein she was found pregnant and now, the prosecutrix has delivered a girl child. The blood samples of the prosecutrix and her baby girl were taken by the Doctor which matched with the DNA of the accused-petitioner, who is the biological father and the prosecutrix is the biological mother of baby.

11. The case is pending at the stage of prosecution evidence.

12. In the end, it is submitted that the offence committed by the accused-petitioner is heinous in nature. There is also apprehension of threat being extended to the victim/prosecutrix by the accused-petitioner if he is released on bail. The accused-petitioner may also jump the bail or commit the similar offence.

13. Therefore, the present bail petition of the petitioner is liable to be dismissed.

14. **Submissions heard.**

15. It is appreciable that that the petitioner during his incarceration period has made an endeavour to learn the skills and also obtained the Certificates in Food & Beverage Service-Associate (TH)C/Q0301 conforming to the National Skills Qualification Framework Level-4, issued by the Skill India and Certificate in Electronics & Hardware (Helper-Electrical Technician) conducted by JSS Peeragarhi, Delhi, but that in no way mitigate the gravity of the offence committed by the accused-petitioner by raping a 17-year old girl repeatedly, and as a result, a girl child is born.

16. Keeping in view the gravity of the offence as well as that eight witnesses out of fourteen witnesses have already been recorded and also that from this act, the child has been begotten, no case is made out for grant of bail.



17. Accordingly, the present petition is dismissed in the aforesaid terms.

NEENA BANSAL KRISHNA, J

AUGUST 7, 2024

S.Sharma