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

+ **BAIL APPLN. 2317/2023**

ASHUTOSH KUMAR PANDIT

..... Petitioner

Through: Mr. Abdus Samad and Mr.
Vivekanand Rana, Advs.

versus

STATE & ANR.

..... Respondent

Through: Mr. Sanjeev Sabharwal, APP for State
with WSI N. Tiamenla PS Geeta
Colony, Delhi.
Ms. Astha, Adv for DHCLSC.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

07.02.2024

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1. By way of present application filed under Section 439 Cr.P.C., the petitioner/applicant seeks regular bail in FIR No.572/2022 registered under Section 376AB/ 506 IPC & 6 POCSO Act at P.S. Geeta Colony, Delhi.
2. Learned counsel for the applicant states that the applicant has been in custody since 01.11.2022. In her complainant, the complainant stated that when her husband was not there, the applicant established physical relations with her on the pretext of keeping her and her children happy. She started residing at the house arranged by the applicant. Thereafter, the complainant shifted to another house which was again taken on rent by the applicant. The complainant maintained physical relations with her. The complainant lived at the rented accommodation for about 4 months and when the applicant expressed difficulty in paying rent, she went to her mother's house. It is



alleged that the physical relations were established at the complainant's mother house as well. On the strength of above, it is contended that the complainant had admitted to maintaining physical relations with the applicant despite being married to another man. Infact, a live-in relationship deed was executed. The complainant identified her photograph and signature on the same. Insofar allegation qua complainant's daughter are concerned, learned counsel states that both complainant as well as her daughter have been examined in court. In her testimony, the child victim has not identified the applicant. Further, during the cross-examination, a suggestion was given to the child victim as to whether she had been told by her mother as to what she had to depose in Court, to which she has answered in the affirmative. Lastly, it is stated that material witnesses have already been examined and 11 witnesses remain to be examined, who are police/official witnesses.

3. Mr. Sajeev Sabharwal, learned APP for the State duly assisted by Ms. Astha, Advocate for the complainant/child victim, has opposed the present application. It is stated that in her statement recorded under Section 164 Cr.P.C., the child victim has clearly stated that the accused had inserted finger in her urination place. The physical relations were established by the applicant with the complainant against her will. The complainant has stated that she had undergone abortion multiple times.

4. A perusal of the FIR and testimony of the complainant, who is the mother of the child victim, would further show that prior to the registration of the present FIR, the mother of the child victim had been in physical relation with the applicant for about three years.

5. I have also gone through the testimony of the witnesses as well as the content of the FIR. Considering the totality of the facts and circumstances of



the case as well as the fact that material witnesses have been examined, it is directed that the applicant be released on regular bail subject to him furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/concerned Court/Duty M.M. and subject to the following further conditions:-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
 - ii) At the time of furnishing bail bond, the applicant shall provide the mobile number, which he undertakes to keep operational at all times during the pendency of the trial.
 - iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
 - iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
 - v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.
6. The bail application is disposed of in the above terms.
 7. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.
 8. Copy of the order be uploaded on the website forthwith.
 9. 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

FEBRUARY 7, 2024/aks