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

+ **BAIL APPLN. 2336/2022**

MOHD.ABDUL@MULLA

..... Petitioner

Through: Ms Sonika Tyagi, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr Ritesh Kumar Bahri, APP for the
State with Insp. Ashutosh Kumar,
Police Station Aman Vihar.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

08.02.2024

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1. The present petition has been filed under Section 439 CrPC seeking regular bail in FIR No.0101/2021 under Section 363 IPC registered at Police Station Aman Vihar. Subsequently charge sheet was filed under Sections 363/366A/368/370/376/120B/328/467/468/34 IPC and Section 6 of POCSO Act and Sections 3/6 ITP Act and 23 JJ Act.
2. The case of the prosecution is that on 22.02.2021, the complainant made a complaint that his daughter is missing from his house since 03.01.2021, which led to the registration of aforesaid FIR. During investigation on 25.02.2021 the present petitioner was arrested along with other accused persons.
3. Learned counsel for the petitioner invites the attention of the Court to the MLC to contend that while preparing MLC the statement of the



prosecutrix has been recorded by the doctor, in which there is no mention of the present petitioner. The allegation in the said MLC are only against co-accused Rani and Baby. It is further recorded in the MLC that it was the said two women, who got the prosecutrix married to one Netram and, thereafter, to one Jai Bhagwan. She submits that no role has been ascribed to the present petitioner in the said MLC.

4. She submits that subsequently in the statement under Section 161 CrPC, as well as, under Section 164 CrPC, the present petitioner has been named and the only role attributed to the petitioner is that he was assisting other co-accused, i.e., Baby and Rani.

5. She submits that there is nothing on record in the form of CDRs which shows that the present petitioner was in touch with the other co-accused, namely, Rani and Baby. According to her, the present petitioner is a poor rickshaw puller and is languishing in jail since 25.02.2021. She submits that the investigation in the matter is complete and the chargesheet has been filed, therefore, the custody of the petitioner is no more required. She, therefore, urges the Court to release the petitioner on bail.

6. *Per contra*, learned APP for the State has argued on the lines of the status report. He submits that there are specific allegations against the present petitioner in the statements of the prosecutrix recorded under Section 161 Cr.P.C., as well as, under Section 164 CrPC. He further submits that there is specific role ascribed to the present petitioner to that effect that he had forged aadhar card of the prosecutrix.

7. I have heard the learned counsel for the petitioner, as well as, the learned APP for the State. There appears to be substance in the submission of the learned counsel for the petitioner that the name of the petitioner is not



mentioned in the MLC nor any role has been ascribed to the present petitioner. However, subsequently, the name of the petitioner has surfaced in the statements of the prosecutrix under Section 161 Cr.P.C., as well as, under Section 164 Cr.P.C. The only role ascribed to the petitioner is that he has facilitated in forging of aadhar card.

8. On a query put by the Court to the learned APP that on what basis the prosecution has arrived at a conclusion that aadhar card has been forged by the petitioner, he submits that upon verification it has transpired that the aadhar card is forged document. However, there is no material on record to show that the said aadhar card was actually forged by the present petitioner.

9. Undisputedly, the petitioner is in custody since 25.02.2021 and he is a senior citizen. The investigation is complete, therefore, the custody of the petitioner is not required any more.

10. However, on a query put by the Court, learned APP, on instructions from the Investigating Officer, fairly states that the petitioner has clean antecedents. It is also not the case of the prosecution in the status report that the petitioner is a flight risk.

11. Considering the aforesaid facts in entirety, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is admitted to regular bail subject to his furnishing personal bond in the sum of Rs. 10,000/- and a Surety Bond of the like amount to the satisfaction of the learned Trial Court/CMM/Duty Magistrate, further subject to the following conditions:-

a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.



b) Petitioner shall provide his permanent address, as well as, his mobile number to the IO concerned. The mobile number shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.

c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the complainant.

12. The petition stands disposed of.

13. It is made clear that the observations made herein above are only for the purpose of considering the bail application and the same shall not be deemed to be an expression of opinion on the merits of the case.

14. Copy of the order be forwarded to the concerned Jail Superintendent for information and necessary compliance.

15. Order *dasti* under signatures of the Court Master.

16. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

FEBRUARY 8, 2024

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