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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1857/2024**

NAUSHAD

.....Petitioner

Through: Mr. Rajesh Prasad Pandey, Advocate.

versus

STATE OF NCT DELHI

.....Respondent

Through: Mr. Shoaib Haider, APP for State
Mr. Arjun Malik, Advocate with SI
Pinki, P.S. Niharl Vihar.

AND

+ **BAIL APPLN. 2643/2024**

JAVED KHAN

.....Petitioner

Through: Mr. Pradeep Singh Rana, Advocate.

versus

THE STATE NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Shoaib Haider, APP for State
with SI Pinki, P.S. Nihal Vihar.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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09.12.2024

1. By way of above-noted bail applications, the applicants/petitioners seek regular bail in FIR No. 821/2023 registered under Sections 376D/506/34 and Sections 6/21 of the POCSO Act at P.S. Nihal Vihar, Delhi.
2. Learned counsel for the applicant/*Javed Khan* contends that the prosecution's version is motivated as there are differences between the



grandmother and father of the child victim. He submits that applicant is one of the property dealers in the area and while grandmother wanted to sell the property through him, the father preferred to sell the same through one *Ravish Khan*. He submits that though the prosecutrix in her statement recorded under Section 164 CrPC has alleged the incident, however, she later disowned her earlier statement in an undated handwritten statement (filed alongwith the charge-sheet). It is also contended that the FIR is delayed and not supported by any CDR connectivity either of applicant/*Javed Khan* or the child victim. Lastly, it is contended that child victim already stands examined and all the aforesaid contentions were put to her during cross-examination.

Ld. Counsel for applicant/*Naushad* while adopting the submissions made on behalf of applicant/*Javed Khan*, has further contended that though the prosecution has cited one *Rahul* (the person whom the child victim later married and told about the incident), he mentioned only the name of *Javed* and not that of the applicant/*Naushad*. He further submits that though the child victim claims to have been deserted by her husband and to have started living in her parental home since 22.04.2024, there is no explanation that why the FIR was lodged on 10.07.2024. Lastly, it is submitted that though the child victim has claimed that on the day of the incident she was called back to the office, where she had handed over office files to another woman, however, the said woman has neither been investigated nor cited as a witness.

3. Ld. APP for the State, duly assisted by the Ld. Amicus appointed to represent the child victim, has opposed the present bail applications. It is submitted that as per the school records, the child victim is 16 years of age.



In her statement, the child victim has alleged that she was employed in the office of the accused and the applicant/*Javed* was known to her family and had proposed to employ her at a salary of Rs.10,000/- per month. The child victim joined the office as an Office Helper. She has claimed that on 05.04.2023 after returning home from her office, she was called back by the applicant/*Javed*, who offered her food and cold drink, after which he committed the offence of rape, followed by accused *Pancham* and *Naushad*. She was also threatened by the applicant/*Javed* not to disclose the incident to anyone. She has categorically repeated the allegations against the applicants in her statement under Section 164 Cr.P.C as well as in her deposition before the Court. Although there is no explanation as to whether the child victim carried a mobile phone or if it was seized, Ld. APP for the State, during the course of submission, and on instructions, submits that the child victim also alleged that when she told about the incident to her father, her father called *Javed* and gave beatings to him. He further submits that phone calls were exchanged between *Javed* and father of the child victim on 05.04.2023, 08.04.2023 and 10.04.2023. Prosecution has also examined *Rahul*, the person whom the child victim married. The child victim later claimed that she disclosed about the incident to *Rahul*, who on being told, deserted her. *Rahul* has been examined as PW4. He also narrated the factum of incident being told to him by the child victim. Although he mentioned only *Javed* but that in no manner negates the allegations against *Naushad*.

4. Considering that the child victim has consistently stated about the role of the present applicants, I find no ground to admit the applicants on regular bail. Consequently, both the bail applications are dismissed.



5. 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.

MANOJ KUMAR OHRI, J

DECEMBER 9, 2024/ga