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

+ **BAIL APPLN. 2866/2023**

SHANKAR SINGH CHAUHAN

..... Petitioner

Through: Mr. Ajayinder Sangwan, Mr. Rohan
Sharma, Mr. H.S.Singh, Mr. Smit
Singh Kuru and Ms. Rishina Parashar,
Advs.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Raghuinder Verma, APP for State
with SI Rajak, PS. Sangam Vihar.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

01.02.2024

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1. The present petition has been filed under Section 439 CrPC read with Section 482 CrPC seeking regular bail in connection with FIR No.331/2019 under Section 363 IPC (subsequently charge sheet was filed under Sections 363/366/368/370/376/506/34 IPC and Section 6 of POCSO Act) registered at Police Station Sangam Vihar.

2. The case of the prosecution in brief is that on 20.09.2019, the complainant made a complaint that her daughter left the house without informing her and since then she is missing. On 26.10.2019, the police received information that the prosecutrix was at Village Baruara, Uttar Pradesh and thereafter, she was recovered from there. Premised on these facts, the aforesaid FIR came to be registered.

3. Since the offence invoked in the present case is also under Section 6 of POCSO Act and this Court *vide* order dated 27.09.2023 and other subsequent orders had directed the I.O to put the prosecutrix to notice with



regard to the filing of the present petition, as well as, the next date.

4. The learned APP has handed over a copy of the General Diary which shows that the I.O had made an endeavour to serve the prosecutrix and he visited the last known address of the prosecutrix but the owner of the said premises informed that Sitara Begum, who is the mother of the petitioner, is no more residing with her family in the said premises. A copy of the General Diary is taken on record.

5. The learned counsel for the petitioner submits that the testimony of the prosecutrix has been recorded. Inviting the attention of the Court to the cross-examination of the prosecutrix, who was examined as PW-1, he contends that the allegation under the POCSO Act is against co-accused persons namely, Pintoo and Chhote. He submits that the only role ascribed to the present petitioner is that he had accompanied co-accused Pooja, who allegedly sold the prosecutrix to Ajay @ Chhote.

6. He submits that the petitioner was not named by the prosecutrix in her statement recorded under Section 164 CrPC and even in the MLC no allegation *qua* the present petitioner has been recorded.

7. He further submits that the antecedents of the petitioner are clean and he is in custody since 27.10.2019 but his custody is no more required as the investigation is complete and the trial is underway.

8. He, therefore, urges the Court to enlarge the petitioner on bail.

9. *Per contra*, the learned APP has argued on the lines of the Status Report.

10. I have heard the learned counsel for the petitioner, as well, as the learned APP for the State and have perused the record.

11. A bird's eye view of the statement of the prosecutrix, who was



examined as PW-1, shows that she has not alleged any offence under the POCSO Act against the present petitioner. Such allegations appear to be only against co-accused Pintoo and Ajay @ Chhote. Further the allegation of selling the prosecutrix are against Pooja. In so far as the present petitioner is concerned, it *prima facie* appears that the role attributed to the petitioner is that he accompanied co-accused Pooja.

12. The prosecution has cited as many as 16 witnesses and till date only 07 witnesses have been examined. It thus, appears that the trial is going to be a protracted one. In the given facts and circumstances, keeping petitioner in custody for an indefinite period to await the outcome of trial will not be justified.

13. On query put by the Court, the learned APP, on instructions from the I.O, who is present in Court, fairly states that the petitioner does not have any criminal record. It is also not the case of the prosecution in the Status Report that the petitioner is a flight risk.

14. Considering the aforesaid circumstances 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 enlarged on regular bail subject to his furnishing a Personal Bond in the sum of Rs. 25,000/- and one Surety Bond of the like amount to the satisfaction of the 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 mobile number to the IO concerned which 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 the witnesses.

15. The petition stands disposed of.

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

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

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

VIKAS MAHAJAN, J

FEBRUARY 1, 2024/dss