



\$~3

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

+ BAIL APPLN. 1990/2024

MAHAVEER

.....Petitioner

Through: Ms. Aakanksha Kaul, Mr. Pranav
Gupta, Mr. Mohd. Arif, Adv.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondent

Through: Ms. Meenakshi Dahiya, APP for State
and SI Vidhi, PS Okhla Industrial
Area, Delhi.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

%

14.11.2024

1. The present bail application has been filed under Section 439 r/w Section 482 Cr.P.C. seeking regular bail in case FIR No. 358/2022 under Section 363/376 IPC and Section 6 of POCSO Act registered at PS Okhla Industrial Area, Delhi.
2. Learned counsel for the petitioner submits that the petitioner is in custody since 01.06.2022. Learned counsel submits that the prosecutrix has also been examined. It has been stated that the trial may take long time and therefore the petitioner may be admitted on bail. It has further been submitted that in the statement recorded before the Court has given contradictory versions.
3. Learned APP for the State has opposed the grant of bail. Learned APP



submits that the FSL report is positive in the present case. It has further been submitted that the prosecutrix only during the cross-examination which was recorded around one month after the examination in chief did not support the case of the prosecution. Learned APP further submits that the prosecutrix was only 15 years of age at the time of the incident. It has been submitted that in case the petitioner is granted bail, he may temper with the prosecution witnesses.

4. The criteria for granting bail in heinous offences are very well settled. The considerations to be taken into account while granting regular bail are the nature and gravity of the respondent's accusations, the possibility of the Applicant fleeing from justice, the possibility of threatening and intimidating the witnesses and other circumstances. However, it is a settled rule that the Court at the stage of the bail cannot hold mini-trials and has to see only the prima facie case as produced by the prosecution. The personal liberty of an individual is a paramount consideration for any court while dealing with application for bail. The custody during the period of trial or investigation cannot be continued as a punishment.
5. It is not disputed that in the cross-examination, the prosecutrix has given a different version. The fact that the prosecutrix has been won over by the accused is a matter of appreciation of evidence by the Ld. Trial Court. The petitioner is in custody for more than two years, and the petitioner is 29 years of age.
6. Taking into account the facts and circumstances, the applicant is admitted to bail upon furnishing a personal bond in the sum of Rs.20,000/- with one surety of like amount to the satisfaction of the



concerned learned Trial Court, subject to the verification of his address, and also subject to the following further conditions:

- f) the Petitioner shall appear before the Investigating Officer/trial court as and when required;
- g) the Petitioner shall under no circumstances leave the country without prior permission of the Court concerned;
- h) the Petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- i) the Petitioner shall provide his/her mobile number(s) to the Investigating Officer and keep it operational at all times;
- j) In case of a change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.

- 7. With the above directions, the application is disposed of. It is made clear that nothing stated in this order shall be tantamount to an expression of any kind or opinion on the merits of the case.
- 8. A copy of this order be sent to the concerned Jail Superintendent for compliance.

DINESH KUMAR SHARMA, J

NOVEMBER 14, 2024/AR/HT..