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

+ **BAIL APPLN. 3128/2023**

**MAHAVEER SINGH**

..... Petitioner

Through: Mr.Satish Pandey, Mr.Danish Saifi,  
Ms.Mausumi Mishra, Ms.Jay Jaimini  
Pandey and Mr.Santosh Kumar,  
Advocates.

versus

**THE STATE (GOVT. OF NCT OF DELHI)  
AND ANR.**

..... Respondents

Through: Ms.Meenakshi Dahiya, APP for the  
State with SI Ashish Kumar, PS  
Okhla Industrial Area.  
Ms.Kamna Vohra, Ms.Dipika Saxena  
and Mr.Shivam Tyagi, Advocates for  
respondent No.2/Complainant.

**CORAM:**

**HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA**

**ORDER**

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**06.02.2024**

**CRL.M.A. 29235/2023**

Application under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the appellant/applicant for condonation of delay of 18 days in filing the order of learned trial court.

For the reasons stated in the application, delay in filing is condoned.

Application is accordingly disposed of.

**BAIL APPLN. 3128/2023 & CRL. M.A. 3838/2024**

1. An application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for grant of regular bail in FIR No. 783/2021 under Sections 363/376 IPC and Section 6



of the POCSO Act registered at PS: Okhla Industrial Area.

2. In brief, as per the case of the prosecution, prosecutrix aged about 9 years alleged that the petitioner/accused residing in her neighbourhood had done wrong acts with her after giving her Rs.10 and out of fear she had not returned to her house but slept at the house of her maternal aunt. She alleged that petitioner had earlier also committed wrong acts with her on 2-3 occasions.

3. Learned counsel for the petitioner submits that statement of the prosecutrix has already been recorded and several contradictions have come on record. It is submitted that in her deposition before the court, the prosecutrix denied that the accused had inserted his penis in the anus though the same was stated in her earlier statements. Further, MLC specifically recorded that there was no penetration. It is also submitted that the victim failed to identify her clothes, which were seized during investigation. It is also pointed out that there is no corroboratory evidence by way of FSL report to link the alleged commission of offence. He further contends that the petitioner presently aged about 60 years is in custody since 20.10.2021 and the statement of the prosecutrix already stands recorded.

4. Application is opposed by learned APP for the State alongwith learned counsel for the prosecutrix. Reliance is further placed upon ***State of U.P. Through CBI v. Amarmani Tripathi***, (2005) 8 SCC 21; ***Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr.***, (2010) 14 SCC 496; ***Commissioner of Customs, Jamnagar, Gujarat v. Rai Metal Works Ltd.***, (2010) 14 SCC 500; and ***MS.N v. State & Anr.***, CRL.M.C. 3399/2023 decided on 28.08.2023.

5. There is no dispute as to the principles of law to be considered for



bail, in the judgments relied upon by learned counsel for the prosecutrix.

Admittedly, in the present case, the accused is in custody for more than 2 years and there is no possibility of influencing the witnesses, in any manner since the victim stands examined. It is admitted by learned APP for the State that there is no evidence by way of MLC or FSL report, which corroborates the penetration, as initially alleged by the victim. The petitioner is aged about 60 years and has clean past antecedents. At this stage, it may not be appropriate to make any observations on the merits of the testimony of the witnesses.

Considering the totality of the facts and circumstances, petitioner is admitted to bail on furnishing personal bond in the sum of Rs. 15,000/- (Rupees Fifteen Thousand only) with one surety in the like amount to the satisfaction of the learned trial court and subject to the following conditions:

- (i) Petitioner shall not reside within the vicinity/area at least 3 kms. from the residence of the complainant/victim;
- (ii) Petitioner shall provide his mobile number to the Investigating Officer (IO) / SHO concerned on release;
- (iii) Petitioner shall not influence the witnesses in any manner during the course of trial.

Application is accordingly disposed of. Pending application, if any, also stands disposed of. A copy of this order be forwarded to the learned Trial Court for information.

**ANOOP KUMAR MENDIRATTA, J**

**FEBRUARY 6, 2024/v**