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

+ **BAIL APPLN. 2231/2024**

CHIRAG

.....Petitioner

Through: **Mr. Varun Kumar, Advocate.**

versus

THE STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: **Mr. Pradeep Gahalot, APP for the State with
SI Kiran Dayal, PS – Moti Nagar.**

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

01.08.2024

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1. This petition has been filed seeking bail in case FIR No. 137/2020, registered at P.S. Moti Nagar under Sections 376/365/506 IPC.
2. Petitioner was arrested on 18th March 2020 and has been in custody for the last four and half years; there are no previous involvements; material witnesses have been examined; and only recording of testimony of the Investigating Officer is left.
3. Counsel for petitioner points out to the cross-examination of the prosecutrix (PW-1) where she has stated that she knew petitioner/ accused for last about three years; she was married about one and half years ago; her first marriage subsisted for only two months and she has not been divorced from her first husband. She further stated that no marriage ceremony had taken place between her and the petitioner/accused, however, they resided together at his house along with his family members on various occasions prior to lodging of the present case.
4. During that period, she had not made any PCR call against the



petitioner/accused. She further stated that she used the mobile phone of petitioner/accused during the period she stayed with him. Her mother knew that she was residing with petitioner/accused in a live-in relationship, and she affirmed that her mother had told her that she should live with the petitioner/accused only after marrying him. Her mother visited the house of petitioner/accused with a marriage proposal but it was turned down, and she did not remember the date when it was done.

5. Relating to the allegations of abducting PW-1/prosecutrix from in front of a shop, she stated that the shopkeeper and her son were present inside the shop; petitioner/accused was not carrying any weapon nor any rope at that point of time. The house where the incidence occurred belonged to *Chacha* and *Chachi* of the petitioner/accused. She stated that she did not make any hue or cry after reaching the house; *Bhai* and *Bhabhi* of the accused along with their small child were present at the first floor of the house where the alleged offence was committed.

6. Counsel for petitioner has also pointed out to the testimony of the mother of the victim (PW-4) who confirmed that her daughter and accused were living together prior to the incident.

7. Considering the above facts and circumstances and that petitioner has been in custody for more than four years; material witnesses have been already examined; there are testimonies of the prosecutrix on which counsel for petitioner places reliance upon to dent the prosecution's case; there are no previous involvements, the petitioner is entitled to grant of bail.

8. In light of the above, it would not be prudent to keep the petitioner behind bars for an indefinite period; this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following



conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
 - ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
 - iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
 - iv. Petitioner shall join investigation as and when called by the IO concerned.
 - v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
 - vi. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.
9. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.
10. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
11. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
12. Order be uploaded on the website of this Court.

ANISH DAYAL, J

AUGUST 1, 2024/kd