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

+ **BAIL APPLN. 2322/2024**

**ARUN KUMAR**

.....Petitioner

Through: Counsel(Appearence not given)

versus

**STATE OF NCT DELHI AND ANR.**

.....Respondents

Through: Mr. Hemant Mehla, APP for the  
State with SI Madhuri PS P.P. Pur  
Mr. Siddhant Nath, Amicus Curiae  
with the complainant

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**ORDER**

**18.09.2024**

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1. The present Application is the third Bail Application filed under Section 429 of the Cr.P.C, 1973 for grant of Regular Bail in the FIR No. 366/2022 registered under Sections 363/376D/34 IPC and Section 6 of the POCSO Act at PS Pul Prahladpur.
2. Brief facts of the case as narrated in the complaint by the Prosecutrix is that the petitioner established physical relationship with her multiple times in different hotels and places on different dates with a promise to marry her. Investigations were carried on and the petitioner was arrested on 01.09.2022. On completion of the investigations, the Charge Sheet was filed in the Court.
3. The earlier Bail Applications have been dismissed by this Court on 01.06.2023 and 23.01.2024. Since then, the testimony of the prosecutrix has



been recorded.

4. The Bail Application filed before the learned Session Court has been dismissed on 15.05.2024. The Bail is sought on the ground that the petitioner has been falsely implicated in this case. The first incident with the Prosecutrix happened on 09.12.2021 and the last incident of physical relation with her was on 04.08.2022, but the prosecutrix made the complaint with the police PS Pul Prahladpur on 31.08.2022. There is no explanation for the delay in the registration of FIR and there is no scientific evidence to support the allegations against the petitioner. In fact, the prosecutrix had visited different OYO Hotels on her free will with the petitioner on various occasions and had submitted her Aadhar Card in the Hotels stating that she was a major on that date.

5. During her stay in OYO hotel on 31.12.202, she submitted her Aadhar Card giving her birth year as 2002, according to which she was a major. Therefore, the offences under Section 6 POSCO Act are not made out. The Statements of the owner of the EM-Home Stay Sh. Babu Singh Saini has been recorded under Section 161 CR.P.C. and he has stated that the girl was a major.

6. The Prosecutrix had also alleged that on 29.07.2022, the co accused had established physical relationship with her, but she herself had gone to the OYO Hotel and even submitted her Aadhar Card of a different age and given her age more than 18 years, with her date of birth 12.01.2004.

7. The Statement of Sachin Singh, the owner of the Hotel, has been recorded under Section 161 Cr.P.C. wherein he has stated that the girl seemed to be without any fear or threat. The offence under Section 376 D IPC is not made as there are no allegations of physical relationship with her



by more than one person at a single time.

8. The learned counsel for the petitioner submits that there are numerous contradictions in the version of the Prosecutrix as given in her Complaint and her Statement under Section 164 Cr.P.C. She has been examined and cross examined before the learned Trial Court.

9. The co-accused who had a similar role, had been granted Regular Bail vide Order dated 15.05.2023. The detention of the accused is neither required nor would serve any fruitful purpose. He has deep roots in the society and undertakes not to misuse the Bail, if granted and that he shall appear in the Court on each and every date. Hence, the Bail is ought.

10. **The State has opposed the Bail** and have submitted that the co accused was alleged to have raped the Prosecutrix once, but in so far as the present accused is concerned, there are various repeated incidents in the period of about 9 months. Considering the gravity of the offence, the Bail is opposed.

11. Learned Amicus Curiae on behalf of the Prosecutrix submits that there are constant threats being given by the petitioner and his family members not only to the prosecutrix and her parents but also to her in laws to compromise the matter. The prosecutrix states that even money has been offered to her in laws for the compromise in the present case. It is argued that there is serious threat to the life and liberty of the prosecutrix from the accused. Moreover, he resides opposite to the house of the prosecutrix and is a constant threat to her life and liberty.

12. **Submissions heard.**

13. The perusal of the testimony of the prosecutrix, the FIR and other statements on record reveal that the prosecutrix got into a relationship with



the petitioner in December, 2021 and has been repeatedly going with him to various hotels where she has also been submitting her documents of identity showing her age to be major, while during the investigations it has been found that she was a minor and was around 16 and a half year old in August, 2022.

14. But, she was seen by father leaving the house with the accused at 01 AM in the night and he apprehended her along with the accused and made the Complaint in the Police Station in September, 2022, which led to the registration of the FIR. It is also significant to observe that the prosecutrix herself had not made the complaint. Considering that her testimony is already been recorded and that there are 25 witnesses and it may take a long time to conclude the Trial, the accused is admitted to Bail on the following conditions:-

- a) The petitioner/accused shall furnish a personal bond of Rs.35,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court.
- b) The petitioner/accused shall appear before the Court as and when the matter is taken up for hearing.
- c) The petitioner/accused 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 intimate to the Investigating Officer concerned.
- d) The petitioner/accused shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.
- (e) He shall keep the IO informed about his present address



f) The petitioner shall not reside in the vicinity of the house of the Prosecutrix, whether at her parental home or her matrimonial home.

(g) He shall not extend any threat to the prosecutrix and shall also not approach her, or her family members for any purpose.

15. Application accordingly disposed of.

**NEENA BANSAL KRISHNA, J**

**SEPTEMBER 18, 2024/PT**