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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 3293/2023

VINOD KUMAR@BILWA

..... Petitioner

Through: Mr.H.S. Uppal, Mr.Shashi
Kaushik, Mr.Kanishk,
Mr.Mohit Dewan &
Mr.Saksham Kalra, Advs.

versus

**STATE NCT OF DELHI THROUGH SHO BHALASWA
DAIRY PS**

..... Respondent

Through: Ms.Priyanka Dalal, APP.
SI Aarti, PS Bhalswa Dairy.
Victim present through VC.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

27.02.2024

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1. This application has been filed under Section 439 of the Code of Criminal Procedure (in short, 'Cr.P.C.') praying for the Applicant to be released on Bail in the proceedings emanating from the FIR No. 69/2023, registered with Police Station: Bhalswa Dairy, Outer North District, Delhi under Sections 363/366A/370A(2)/376/372 of the Indian Penal Code (in short, 'IPC') and Sections 6/8 of the Immoral Traffic (Prevention) Act, 1956.

2. It is the case of the prosecution that the above FIR was originally registered under Section 363 of the IPC. On 18.01.2023, the victim was traced and reported about her being subjected to sexual assault multiple times by different persons. Her statement under



Section 164 of the Cr.P.C. was recorded before the learned Metropolitan Magistrate on 19.01.2023, wherein she stated that she had been taken from her home by the co-accused 'N' to her friend's flat at Mahipalpur, where she stayed for 2-3 days, whereafter another co-accused 'V' took her to Bhiwadi, where she was made to stay in a hotel, where she was kept in a locked room. She stated that two anonymous boys had forcefully raped her in the said hotel. She stated that she somehow managed to escape from there with the help of a peon at the hotel, and came back to her house. The applicant has been arrayed as an accused in the present case, alleging that he is the dealer who used to send men to rape the victim.

3. The learned counsel for the Applicant submits that the statement of the victim already stands recorded before the learned Trial Court. He submits that the victim has not supported the case of the prosecution, and there is no specific allegation against the Applicant. He has taken me through the said statement.

4. He further submits that the Applicant has been in custody since 06.02.2023. He submits that the Applicant has also recently lost his wife, and has two children aged about 12 and 9 years.

5. The victim, who appears virtually, submits that she has no objection if the applicant is released on Bail.

6. The learned APP, however, opposes the present application, stating that the victim has named the Applicant as the person who came to the room along with two boys, who later committed the alleged offence on her. She further submits that it appears that the victim has been won over by the accused.



7. I have considered the submissions made by the learned counsels for the parties.

8. Having perused the statement of the victim recorded before the learned Trial Court, and keeping in view the fact that the Applicant has undergone custody for more than a year now, and that it is not reported that there are any other criminal cases pending against the Applicant, in my opinion, the Applicant has been able to make out a case for being released on Bail.

9. Accordingly, it is directed that the Applicant be released on Bail in FIR no.69/2023, registered with Police Station: Bhalswa Dairy, Outer North District, Delhi on furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. The Applicant will not leave the country without the prior permission of the learned Trial Court.
- ii. The Applicant shall provide his permanent address to the learned Trial Court. The applicant shall also intimate the Court, by way of an affidavit, and to the IO regarding any change in his residential address.
- iii. The Applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The Applicant shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant in a working condition at all times and shall not be switched off or changed by him without prior



intimation to the learned Trial Court and the IO concerned. The mobile location be kept on at all times.

- v. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact, directly or indirectly, with any of the prosecution witnesses or tamper with the evidence of the case while being released on bail. In case the Applicant is found involved in another case, it will be open to the prosecution to file an appropriate application seeking cancellation of his bail in the present case as well.

10. Needless to state, any observation touching upon 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 the merits of the matter.

11. The Bail Application is disposed of in the above terms.

12. A copy of this order be sent to the Jail Superintendent for information and necessary compliance.

13. *Dasti.*

NAVIN CHAWLA, J

FEBRUARY 27, 2024/rv/AS

Click here to check corrigendum, if any