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

+ **BAIL APPLN. 2430/2024**

RENU KUMARI

.....Petitioner

Through: Mr. Shahid Azad, Mr. Mateen Ahmad, Mr. R.M. Asif, Ms. Riya Khandelwal, Ms. Meenu Sharma, Mr. Kamal Kumar, Mr. Mohd. Shoiab, Mr. Manoharan V.V., Advs.

versus

STATE OF NCT DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State with Inspector Manjusha, PS Sarita Vihar and SI Arti, PS RK Puram

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

25.10.2024

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1. The present bail application has been filed under Section 439 Cr.P.C. seeking grant of regular bail in case FIR no. 079/2023 registered under Section 323/324/342/34 IPC and section 75 JJ Act at PS: RK Puram. The charge sheet was filed under Section 342/326/323/324/307/34 of IPC, under Section 6/10/12/21 of POCSO Act & section 75/80 of J.J. Act.
2. Learned counsel for the petitioner submits that the applicant is in custody since 16.02.2023. Learned counsel submits that though the charges have been framed against the applicant, however, the charges are yet to be challenged before the appropriate court. Learned counsel submits that even the charge-sheet does not establish sexual intent on the part of the



applicant. Learned counsel submits that the applicant is a former government servant and a corona warrior. It has been submitted that the victim has already been examined and the victim has not supported the case of the prosecution at all. Learned counsel submits that, in fact, the enthusiasm of the Investigation Officer (IO) has resulted in filing of the charge-sheet without any basis.

3. Learned APP for the State has strongly opposed the bail application arguing that though the victim has not supported the case of the prosecution but the medical evidence on the record indicates that the victim had been treated with utmost cruelty. It has been submitted that the medical report on the record does not entitle the applicant to be admitted to bail.
4. The criteria for grant of bail in heinous offences are very well settled. The consideration to be taken into account while grant of regular bail are the nature and gravity of the respondent's accusations and the antecedents of the applicant, possibility of the Applicant to flee 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. The speedy trial in the present case does not seem a possibility and keeping the applicant in further incarceration would cause deprivation of his right to legal defence. The object of jail is to secure the accused



person's appearance during the trial. The object is neither punitive nor preventive, and the deprivation of liberty is considered a punishment. The applicant cannot be made to spend the entire period of trial in custody especially when the trial was likely to take a considerable time. Similar view has been taken by the Apex Court in ***Union of India v. K.A. Najeer*** (2021) 3 SCC 713.

6. In the present case, the victim has not supported the case of the prosecution at all. The effect of the medical evidence has to be appreciated by the learned Trial Court at the time of the final appreciation of the case. Further, as per nominal roll dated 17.09.2024, the applicant is a lady and is of 45 years of age and is in custody since 16.02.2023 and her conduct has been found satisfactory.
7. In the peculiar facts and circumstances, taking the *prima facie* view and the period of incarceration, the applicant is admitted to regular bail upon furnishing a personal bond of Rs. 20,000/- with one surety of the like amount to the satisfaction of the concerned learned trial court, subject to the verification of address and provide his mobile number(s) and subject to the following further conditions:
 - a) the applicant shall regularly appear before the IO/trial court as and when directed;
 - b) the applicant shall not directly or indirectly make any inducement, threat, intimidate or tamper with any person acquainted with the facts of the case;
 - c) the applicant shall remain available on the address, to be given to the IO and shall not leave the country without the permission of the learned Trial Court;



- d) In case of change of residential address and/or mobile number, the applicant shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.
8. With the above directions, the application is disposed of.
9. A copy of this order be sent to concerned Jail Superintendent for information and necessary compliance.

DINESH KUMAR SHARMA, J

OCTOBER 25, 2024
JN/HT..