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

+ **BAIL APPLN. 2687/2024**

RAGHU

.....Petitioner

Through: **Mr.Ravi Nayak, Advocate**

versus

STATE NCT OF DELHI

.....Respondent

Through: **Ms.Meenakshi Dahiya, APP for the
State alongwith SI Loveleen, P.S.-
Moti Nagar**

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

26.11.2024

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1. The present application has been filed on behalf of the applicant seeking regular bail in case FIR no. 222/2018 registered at Police Station Moti Nagar, for offences punishable under Sections 376/376(DB)/377/354A/354B/506/509/144/109 IPC and Sections 6/10/12/17 of POCSO Act.
2. The case of the prosecution as recorded in the status report dated 17.09.2024 is as under:-

"1. That the above-mentioned case was registered at PS Moti Nagar vide FIR No. 222/2018 Dt. 20.06.2018 U/s 376/354(B)/506(6)(IPC & 10 POCSO Act on the statement of the complainant S in which she stated that her mother used to live separately from her father for 2 years. She along with her brother used to live with her father Raghu in Jhuggi No. 8/35-A, Kirti Nagar, Delhi. Her father made physical relation with her. During Mission Buniyad on 2 June, 2018 her father brought her in his work place which was a factory



opposite to Kalra Hospital. There was a room adjacent to factory where her father made physical relation with her many times. After that, she along with her went back to her mother on 05.06.2018. un 19.06.2018 she told whole story to her mother and the case was registered on 20.06.2018 at PS Moti Nagar Hence, site plan was prepared after registration of FIR.

2. That during the investigation, medical examination of the victim vide MLC No. 24355/24 D. 09.07.2018 was conducted where in doctor stated that "6 yr old S D/o R, brought to Gynae casualty by W/Ct. Geeta and mother giving h/o sexual assault by father. The Father took the child to his factory and made penile intercourse with the child but did not penetrate, giving no senile ejaculations times. The last was 15 days back; the child has bath after that and cheval cloths. UPT negative." No exhibits were seized during the medical examination of the victim. Statement U/s 154 CrPC was also got recorded on 20.06.2018 before the Hon'ble Court of T. Priyadarshini, Ld. Duty MM, Tis Hazari Court in which victim supported her version given at the time of registration of FIR. She also stated that a lady named Vindrawati did sex with her father in the presence of victim in a room which was nearby the factory which was opposite to Kalra Hospital

3. That during the investigation, mother of the victim gave the complaint at PS Moti Nagar which was received on 07.07.2018 in which complainant alleged a lady Vrindawati forced her to see porn movies. There were two people also whose name is Devender Singh and Gurdayal Singh. They used to have Oral Sex with the daughter of complainant (victim). Vrindawati made her obscene videos and threatened to uploaded on internet. Complainant also stated in her complaint that the sexual assault with her daughter also happened in residence of Gurdayal Singh at H No. 11/129, J Block, Rajouri Garden, Delhi. Statement U/s 151 CrPC of victim was also got recorded in this regard

4. That on 20.06.2018, accused Raghu S/n Vijay Bahadur R/o 5/35, Jhuggi No. 672, Kirti Nagar was arrested and sent in JC. After statement U/s 164 CrPC and verification of all the



facts in it, co-accused Vrindawati W/o Lt. Sh. Sanjay Kumar R/o Jhuggi No. 675, 5/35, Industrial Area, Kirti Nagar, Delhi. The bail of nocused Vrindawati dismissed by the hon'ble Court on 20.08.2018. Later on, co-accused Vrindawati granted bail from the hon'ble court Accused Gurdayal Singh and Devender Singh was evading their arrest so, NBW was issued against both of them at the time of filing the chargesheet.

3. Learned counsel for the applicant submitted that this case has to be seen in the backdrop of the first statement made by the victim before the Police on 20.06.2018 wherein she has stated that there used to be quarrel between her parents and she alongwith her two brothers had been residing with her father i.e. the applicant, for the last around 2 years. It also came in the statement that her mother had got separated from the applicant around two years back. Further, the victim alleged the aggravated sexual assault by the applicant and stated that the last incident took place on 02.06.2018. The victim stated that she came to her mother on 05.06.2018 and told the entire incident to her mother on 19.06.2018. Learned counsel submits that initially the allegations were made only against the applicant, and later on, the allegations were also made on against a lady namely Vrindawati and two persons namely Gurdayal Singh and Devender Singh. It is further submitted that the applicant is in custody for more than 6 years. His antecedents are clean and his conduct in the jail has been satisfactory. Thus, it is prayed that the applicant may be released on bail as the trial may take a long time.
4. *Per contra*, learned APP for the State has vehemently opposed the



instant application and submitted that it is very serious case where a 11-year old child has been sexually assaulted by her own biological father. It is submitted that though the victim has been examined, but her mother is yet to be examined. Therefore, if the applicant is released on bail, he may threaten or intimidate the witnesses.

5. The jurisdiction of the Court at the stage of the bail is to see the gravity of the offence, the possibility of the accused fleeing away from the justice, possibility of the accused threatening or intimidating the witnesses and other attendant circumstances. The first statement of the victim dated 20.06.2018 indicates that the victim was residing with her father for two years whereas her mother got separated and was residing separately for the last two years. The last alleged incident was of 02.06.2018. The victim went to her mother on 05.06.2018 and told the entire incident only on 19.06.2018 and the complaint was made on 20.06.2018. Furthermore, the improvements made by the victim in her statement have also been brought on the record. The Court, at this stage, has only to look at the *prima facie* case. The evidence is yet to be appreciated by the learned Trial Court. The detention during the trial cannot be termed as punitive.
6. In view of the facts and circumstances, the applicant is admitted to regular bail on furnishing a personal bond in the sum of Rs. 20,000/- with one surety of the like amount to the satisfaction of concerned learned Trial Court, subject to the verification of address and mobile number to be given and subject to the following further conditions:
 - a. the petitioner shall regularly appear before the IO/trial court as and when directed;



- b. the petitioner shall not directly or indirectly make any inducement, threat, intimidate or tamper with any person acquainted with the facts of the case;
- c. the petitioner 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 petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.

7. In view of the above, the instant application stands disposed of.

DINESH KUMAR SHARMA, J

NOVEMBER 26, 2024

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