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

+ **BAIL APPLN. 3808/2023**

SHEIKH NIHAL

..... Petitioner

Through: Mr. Dinesh Kumar Sharma, Mr. Krishan Shokeen, Ms. Priyanka Siwas, Mr. Kawalpreet Singh & Mr. Rajeev Arya, Advs.

versus

THE STATE

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State with Ms. Mansi Gera, Advocate SI Sangeeta, P.S. S.B. Dairy alongwith victim & mother. Mr. Priyank Kharwalwal Advocate for complainant.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

30.04.2024

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1. The present application under Section 439(1) of the Cr.P.C. seeks regular bail in case FIR No. 643/2023, under Sections 308/323/354/506/509/34 of the IPC and Sections 10/12 of the POCSO Act, registered at P.S. Shahbad Dairy.

2. As per the status report dated 25.03.2024, authored by Station House Officer P.S. Shahbad Dairy, Delhi, the case of the prosecution is as under:-

“The briefly stated facts of the case are that the present case FIR No. 643/23 was registered on 5/07/23, U/S 308/323/354/506/509/34 IPC & 10/12 POCSO ACT ,PS SB Dairy, Distt. OND, Delhi on the statement of MN D/o SAS R/o ABCD, Age-16 Years wherein she alleged that on 3/7/23 at



around 7:30 PM, she was inside her house and her father who is disabled was sitting outside of the house and suddenly her neighbors Sajid and Nihal came and started hitting her pet dog which was tied outside the house. She forbid them from doing so and they went away angrily. After some time, Victim 'N' was doing some work outside her house and suddenly Sajid and Nihal came again. Sajid started touching her inappropriately on her hips. She opposed Sajid and her father also started objected to indecent behavior of Sajid and Sheikh Nihal at which both of them got angry and started beating victim's father on his head. After that, Victim went to BSA Hospital for her father's treatment. Later on, Victim gave her statement on 5/7/23 and a case U/S 308/354 IPC & 12 POCSO ACT was registered. The medical examination of victim's father was conducted in BSA, Rohini vide MLC No. 8852/23 on which doctor opinion laceration 4*0.5 cm over parietal region and the nature of injury simple". The medical examination of the victim was conducted in MV Hospital, Pooth khurd vide MLC No. 8852/23 on which doctor observed No fresh external Injuries seen at the time of ME". Investigation was taken up and accused Sheikh Nihal was arrested and on the basis of his disclosure other co-accused persons namely CCL Suraj @Ravi, CCL Sajid, CCL and CCL Sandeep were apprehended. All the above-mentioned CCL are on bail from JJB, Sewa kutir. Statement U/S 164 CrPC of the victim was recorded in Rohini court. The age of the victim and the CCL has been verified from their respective schools. Accused Sheikh Nihal couldn't submit his age proof and hence his ossification test was conducted from BSA Hospital. As per the reports of the BSA Hospital, Accused Sheikh Nihal is major. Investigation in complete and Chargesheet and PIR has been duly submitted for judicial verdict".

3. Learned counsel appearing on behalf of the applicant submits that as per the FIR itself, the dispute had occurred on account of the complainant's pet dog barking at the applicant and his associates. It is submitted that the material witnesses in the present FIR i.e. complainant, her father and



mother, all three have been examined before the learned Trial Court. The applicant has been in custody since 06.07.2023 and there is no previous involvement of the present applicant. It is further submitted that the other co-accused persons have been declared CCL and separate proceedings *qua* the co-accused persons are filed before the Juvenile Justice Board and they have already been granted bail.

4. Learned APP for the State alongwith learned counsel for the complainant submits that the allegations in the present FIR are serious, the father of the complainant received injuries on the head. It is submitted that the applicant had been threatening the complainant and her family members.

5. Heard learned counsel for the parties and perused the record.

6. As per the status report, the injuries received by the father of the complainant are simple in nature, the material witnesses including the father and mother of the complainant have already been examined before the learned Trial Court. The allegations in the FIR with respect to inflicting injury on the father of the complainant are general in nature and have been attributed to the present applicant and the co-accused persons together

7. With regards to the allegation of threat, it is pointed out that no complaint has been received by the IO with regard to the same.

8. Nominal roll dated 02.01.2024 received from Superintendent of Prisons, Central Jail No.5, Tihar, New Delhi reflects that as on 25.04.2024 the applicant has already been in judicial custody for 9 months and 20 days.

9. In totality of the facts and circumstances, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 25,000/- with one surety of like amount by a family member, to the satisfaction of the learned Trial Court/Link Court, further



subject to following conditions:

- i. The applicant shall not leave NCT of Delhi without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in 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 is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- v. The applicant shall report to the SHO of the concerned police station , once a week, i.e., on every Thursday at 4:00 PM and the concerned officer is directed to release him by 4:30 PM after recording his presence and completion of all the necessary formalities
- vi. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
- vii. The applicant shall not contact the complainant or any of the family members of the complainant and non-compliance of the same shall result in cancellation of bail.
10. The application is allowed and disposed of accordingly.
11. Pending application, if any, also stand disposed of.
12. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.
13. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.



14. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

APRIL 30, 2024/nk

Click here to check corrigendum, if any