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

+ BAIL APPLN. 2707/2024, CRL.M.As. 22641-22642/2024

SURAJ

.....Petitioner

Through: Mr. Ashok Drall, Ms. Aashi Drall,
Mr. Chirag Kumar, Mr. Jitesh Yadav
and Mr. Chirag Madan, Advs.

versus

THE STATE OF NCT OF DELHI THROUGH SHO

.....Respondent

Through: Mr. Shoaib Haider, APP for State
with SI Vijay, PS Mahendra Park.
Mr. Sarthak Tomar, Advocate for
prosecutrix with prosecutrix.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

22.10.2024

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1. By way of present application, the petitioner/applicant seeks regular bail in FIR No. 0962/2023 registered under Sections 376/323/313/506/34 IPC at P.S. Mahendra Park, Delhi.

2. Learned counsel for the applicant/petitioner submits that the applicant is a student aged about 20 years while the prosecutrix is a married lady of about 26 years of age. Learned counsel further submits that the applicant is in custody since 29.10.2023 and chargesheet stands filed and the charge is yet to be framed. It is stated that in her complaint, the prosecutrix has claimed herself to be married to one *Alauddin* according to Muslim Rites and has a child aged about 7 years from the said marriage. Though the complainant has claimed that she was divorced, however, there is neither



any investigation on this aspect nor the said fact has been verified in the chargesheet. The petitioner claims that the prosecutrix is still married. It is further stated that as per the allegations leveled, physical relations were established with consent of the complainant and on the promise of marriage, which was allegedly not kept by the applicant subsequently. To support his contention that the parties were having consensual relations, he submits that the factum of their visiting a hotel in Paharganj, has also been verified. Reliance has been placed on the decision of *Prashant Bharti vs. State of Delhi*, (2013) 9 SCC 293. Additionally, it is stated that the allegations show that there are financial transactions between the family of the parties.

3. Learned APP for the State duly assisted by learned counsel for the prosecutrix has opposed the bail application. It is stated that the prosecutrix has also alleged forcible relations in her statement recorded under Section 164 Cr.P.C. Learned APP further submits that the factum of parties visiting the hotel in Paharganj, has also been verified and CCTV footage of the hotel as well as the hotel entry register has been seized alongwith the identity documents submitted at the time of booking of the room in the hotel.

4. I have heard learned counsels for the parties and perused the material available on record.

5. The prosecutrix has alleged that she had obtained divorce from her husband, however, there is no specific date or proof of that supplied or seized during investigation. On a specific query as to whether factum of marriage/divorce of the prosecutrix has been verified, the answer is in negative. The allegations pertain to voluntary consensual relations. The allegations of forcible relations came only subsequently at the time of recording of statement under Section 164 Cr.P.C. The parties have



voluntarily gone to the hotel from where their identity documents are also seized.

6. Considering the totality of the facts and circumstances, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/concerned Court/Duty J.M. and subject to the following further conditions:-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
- ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
- iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
- iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
- v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.

7. The bail application is disposed of in the above terms alongwith miscellaneous applications.

8. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.

9. Copy of the order be uploaded on the website forthwith.

10. Needless to state that this Court has not expressed any opinion on the



merits of the case and have made the observations only with regard to present bail applicant and nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

OCTOBER 22, 2024

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